

Brit. 53^{m.a}

Direction to the Binder.

*Place the Table of Contents of the Constitutional Code
facing the Title Page.*

OFFICIAL APPLIED

MAXIMIZED

EXPENSE MINIMIZED

AS SHOWN IN THE SEVERAL PATENTS COMPRISED

IN THIS TREATISE

BY

JEREMY BENTHAM

LONDON:

PRINTED FOR THE AUTHOR

AND

PUBLISHED BY ROBERT NEWLAND

AT THE OFFICE OF THE WESTMINSTER BEAVER

2, WELLINGTON STREET, STRAND

1830.

OFFICIAL APTITUDE
MAXIMIZED;

EXPENSE MINIMIZED:

AS SHEWN IN THE SEVERAL PAPERS COMPRISED
IN THIS VOLUME.

BY

JEREMY BENTHAM.

LONDON:

PRINTED FOR THE AUTHOR,

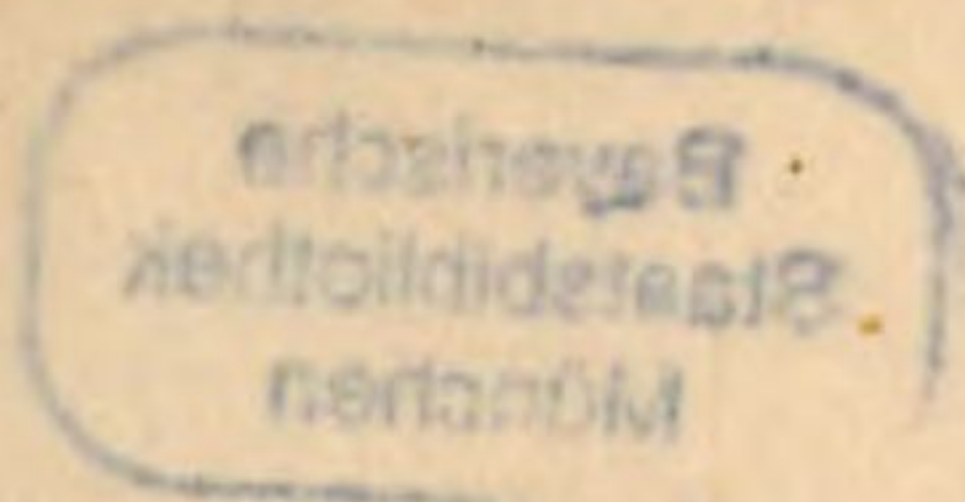
AND

PUBLISHED BY ROBERT HEWARD,

AT THE OFFICE OF THE WESTMINSTER REVIEW,

2 WELLINGTON STREET, STRAND.

1830.



OFFICIAL APITUDE

MAXIMIZED:

EXPENSE MINIMIZED:

LONDON:

PRINTED BY C. AND W. REYNELL, BROAD STREET,
GOLDEN SQUARE.

JEREMY BENTHAM

LONDON:

PUBLISHED BY ROBERT HEWARD

1830

Bayerische
Staatsbibliothek
München

CONTENTS OF THIS VOLUME.

- Paper I. Preface to the whole.
- Paper II. Introductory View.
- Paper III. Extract from the Constitutional Code.
- Paper IV. Supplement to the Extract.
- Paper V. Defence of Economy against Burke.
- Paper VI. Defence of Economy against Rose.
- Paper VII. Observations on Mr Secretary Peel's House of
Commons' Speech on the Police-Magistrates'
Salary-Raising Bill.
- Paper VIII. Indications respecting Lord Eldon.
- Paper IX. On the Militia.
- Paper X. On Public Account-Keeping.
- Paper XI. Constitutional Code Table of Contents.

CONTENTS OF THIS VOLUME

- Paper I. Preface to the whole.
- Paper II. Introductory View.
- Paper III. Extract from the Constitutional Code.
- Paper IV. Supplement to the Extract.
- Paper V. Defence of Economy against Burke.
- Paper VI. Defence of Economy against Horne.
- Paper VII. Observations on Mr Secretary Peel's House of Commons Speech on the Police-Magistrates' Salary-Raising Bill.
- Paper VIII. Additions respecting Land Taxes.
- Paper IX. On the Mills.
- Paper X. On Public Account-Keeping.
- Paper XI. Constitutional Code Table of Contents.

PREFACE.

To the whole of the matter, which, under nine or ten different heads*, is now, in the compass of one and the same volume, published under the same general title,—belongs one and the same design, and, it is believed, one and the same result. But, it being composed of no fewer than (besides this) nine different papers, published mostly at different times, on different occasions, and under titles by which no intimation of such unity of design is conveyed,—it has occurred that that design may in no small degree be promoted, by holding up to view, in this Preface, the way in which they are regarded as being respectively conducive and contributory to it.

The work, from which they take their common origin, was an all-embracing system of proposed Constitutional Law, for the use of all nations professing liberal opinions: Volumes,

* Since this Preface was committed to the press, some change having been made in the list of the Papers originally intended to be inserted; hence some uncertainty and mis-statement in the *numerical* designation of them. But, as by reference to the list of contents, things may be set right, the benefit of correction would not (it has been thought) pay for the trouble.

three ; the first of which, after having been some years out of the press, is at this time now first published. Of this work, a main occupation was, of course, the shewing by what means the several members of the official establishment—in other words, the public functionaries, of the aggregate body of whom, what is called the *Government* is composed—might be rendered, in the highest degree well qualified, for rendering to the whole community the several services which are or ought to be looked for at their hands : or say, for giving fulfilment to that, which is or ought to be the end of their institution :—namely, the maximization of the happiness of the whole community under consideration.

In any one of these forms of words, may be seen expressed the whole of the benefit in view.

But, in the very nature of the case, connected with this *benefit*, is a *burthen*, without which the attainment of this same benefit is, in all places, and at all times, utterly impossible. Of this burthen the principal and most prominent part, being of a pecuniary nature, is designated and presented to view by the word *expense*.

Hence it is—that, with the object designated by the words *Official aptitude*, becomes inseparably associated the object designated by the word *expense*.

Of whatsoever *benefit* comes to be established, the *net* amount will be—that which

remains after deduction made of the amount of the *burthen*.

A notion, which, in the course of this inquiry, whether really entertained or no, I had the mortification of seeing but too extensively endeavoured to be inculcated, was—that the net amount of the benefit reaped would, in this case, increase, and as of course, with the amount of the burthen imposed: and—to speak more particularly, that the aptitude of official men for their several situations would, in a manner of course, receive increase with, and with every practicable degree of exactness in proportion to, the expense employed in engaging them to enter upon, and continue in, their respective situations.

On the contrary, for my own part, the more closely I looked into the matter, the more thoroughly did I become persuaded—not only that this opinion is erroneous, but that the exact reverse of it is the real state of the case.

In regard to each of these so intimately connected objects—maximization of official aptitude, and minimization of official expense—to show by what means the best promise of the obtainment of them might be afforded, was of course an object of my inquiries. From the words *Official aptitude maximized, expense minimized*—from these five words might this design receive its expression: and, of the design or purpose of this work, might intimation be thus afforded by its title. But,

in addition to *this*, a further idea, which it is my wish to see associated with these words, is—that of these two states of things—these two mutually concomitantly desirable objects—one bears to the other the relation of *cause to effect*; for, that from the same arrangement from which the expense so employed will *experience diminution*, the aptitude in question will, in the natural order of things, *receive increase*: in a word, that *cæteris paribus*, the less the expense so bestowed as above, the greater, not the lesser, will be the aptitude.

Now for the painful part of this inquiry:

Never, to any subject-matter,—considered as a source of happiness or unhappiness, or both,—have my labours on any occasion been directed, but with a view to the giving increase to the net amount of happiness. But, so intimately blended and intermingled, throughout the whole field, are those two fruits of human action,—never could the sweet be brought to view, but the bitter would come into view along with it: and, as the sweet would, in great measure, come into view and be reaped without effort,—the consequence was—that in clearing away the bitter consisted the great part of the labour necessary to be employed. In such part of the field,—for obtaining, of the *bitter*—in a word, of the unhappiness—produced by deficiency in the aptitude—a perception sufficient to put me in search after the most effectual

mode of supplying that same deficiency,—a very slight glance would commonly suffice. But, this object accomplished, then has come the task of shewing the needfulness of the research that had been made: shewing this, by shewing the bitterness of the fruit with which the whole field was overrun, and the magnitude of the evil, actually and continually coming into existence, from the want of the supposed discovered appropriate and effectual remedy.

Painful (I may truly say) has, on every occasion, been this part of my task: for, never has it happened to me to witness suffering, on the part of any creature, whether of my own species or any other, without experiencing, in some degree or other, a sensation of the like nature in my own nerves: still less possible has it been to me to avoid experiencing the like unpleasant situation, when it has happened to myself to have been contributory to that same suffering.

Yet, without bringing to view the evil,—utterly incomplete would have been the good, produced by the invention and description given of the remedy: for, by all those, whosoever they were, by whom, for the sake of the benefit derived by them from the evil, the existence of the evil would of course be denied, and their endeavours applied to the keeping it out of view,—correspondent ill-will, harboured towards those by whom this

source of the good is endeavoured to be dried up, is a necessary consequence.

Here then, in connection with every particle of the good endeavoured and supposed to be done,—come *three* distinguishable particles of evil: evil, from the contemplation of the suffering endeavoured to be prevented; evil, from the contemplation of the suffering, producible, on the part of the evil-doer, by the application made of the remedy; evil, apprehended from the desire of vengeance, produced, in the mind of the evil-doer, by the loss of his accustomed benefit.

Happily, it follows not in this case that, because the particles of evil bear in number to those of the good the ratio of three to one, they must in the aggregate be superior in value to the good. Happily: for, if such were the consequence,—scarcely where, between man and man, contention had place, would good to any net amount be ever produced.

Moreover, a few hints there are, to which, coupling together two considerations, namely, that of the extent of their usefulness, if any they have, and the narrowness of the space into which they may be compressed, I could not refuse admittance: and, for such admittance, no other place than the present could be chosen with any advantage.

Disappointment-prevention, or say *non-disappointment*, principle. For the purpose of

retro-susception or say *resumption*, as well as for that of original distribution,—in this principle may be seen the chief and all-directing guide. In this may be seen, on the ground of utility and reason, the foundation of the whole law of property, *penal* branch as well as *civil*. In another place* application has already been made of it, to the subject of what is called *real property*:—and thereby explanation given of it. In the present volume may be seen ulterior application made of it, and explanation given to it: namely, in the immediately ensuing Paper, intituled *Introductory View*.

In the train of it come now a few proposed rules and observations:—

1. Rule I.—So long as expenditure continues running through any pipe or channel, which can be stopped without production of disappointment—disappointment to *fixed* expectations already formed,—forbear to stop it, in any pipe or channel by the stoppage of which such disappointment will be produced.

2. Rule II.—On this occasion, by appropriate delineation draw a clear and express line of demarcation between *fixed* and *floating* expectations.

Every solicitor, who sends a son of his to one of the Inns of Court, *expects* to see that same son on the Chancery Bench with the seals before him; as the Lord Bathurst, of Queen

* [*Another place*].—Westminster Review for 1826, No. XII.

Ann's creation, saw his. Behold here a specimen of *floating* expectations: correspondent to *fixed expectations* in ordinary language, are *vested interests* in technical language.

Rule III. — The amount of the sum proposed to be *retrenched* being given, and the amount of suffering of every sufferer by it being the same, the less the number of the sufferers by it the better.

Application. Case supposed: In the department in question, mass of expenditure proposed to be retrenched, 1000*l.* a year: one sum of 1000*l.* a year forms the salary of *one Commissioner* of a Board: another sum of 1000*l.* a year, the aggregate of the salaries of *ten Clerks*. These situations, all eleven of them, are, on examination, deemed needless: but, without production of disappointment they cannot, any one of them, be struck off. Direction in consequence: strike off the one Commissioner, rather than the ten Clerks, or any one or more of them.

4. Rule IV. — Remember always, — that, on both sides, the amount of the provision probably obtainable by each such dismissed functionary, in lieu of what he thus loses, requires to be taken into consideration.

5. Example of a channel of expenditure capable of being stopt up, without disappointment of fixed expectation, this: namely, Salaries of the ostentatious class of functionaries sent on *foreign missions*: Secretaries of Lega-

tion, Consuls, and Vice-Consuls, not included. Offers of service at reduced salaries to every diversity of amount—offers of gratuitous services, not to speak of offers of purchase—let all such offers be called for and received, before choice is made. Of purchase? Yes. For, if a fit man there be, who, instead of being paid for taking upon him the burthen, is willing to pay for the permission to bear it,—why, even against any such offer should the door be closed?

As to the general indication afforded, of aptitude for a political situation, by the proof given, of *relish* for it by the smallness of the sum required for taking it, or the largeness of the sum ready to be given for it,—see on this head what is said in Paper III—*Extract from the Constitutional Code.*

6. Note, that—by striking out any individual, in whose instance *fixed* expectation, either of *continuance* in possession, or of *acquisition* of possession, has place,—nothing is gained, upon the whole, by the community of which he forms a part. Not more is the community thus benefited,—than, by the removal of a weight from one side of a ship to another, the ship is lightened.

7. As often as, at the public expense, money is given in the name of *indemnification*, complete or incomplete, for loss, sustained by him without his default,—so often is acted upon a principle, the reverse of that which would produce the disappointment of a fixed expect-

ation, by the uncompensated extinction of a profit-yielding office.

To apply this observation to the matter of the present volume. In the three first of these Papers will be seen nearly the whole of the *sweet* part of the compound task: in the four next will be seen predominating the bitter. The first thing done will consist accordingly in laying down, all along, what, in my view of it, is *right*; that, to this, as a standard, for the purpose of detection and exposure, may all along be applied that which, in my view, is *wrong*.

As to the ninth of these Papers,—of the subject of it (the *Militia*) the extent is comparatively narrow,—and the relation of it to the rest must wait for its explanation till some other matters have been brought to view.

Occupied principally in shewing how the aptitude in question *may* be maximized and the expense minimized, and that by every diminution effected in the expense, augmentation may be given to the aptitude—are the three first and the eighth of the ensuing papers: occupied in shewing that in fact, on the part of the rulers of the British Empire in its whole vast mass, and of the English part in particular of them, the endeavour has been, and continues to be, and so long as the form of government continues to be as it is, never can cease to be—to maximize the expense and minimize the aptitude—occupied in the establishment of this position, are the remain-

ing numbers ; that is to say, the 4th, 5th, 6th, and 7th of these same Papers.

Specially connected with one another will be seen to be Papers 4 and 5 ; mutually connected in like manner with one another, Papers 6 and 7.

In Papers 4 and 5, may be seen occupied the leading minds of the two parties between which the statesmen of those days respectively were divided, years 1780 and 1810,—occupied in the endeavour to obtain the approbation of the community, for principles, by which, if carried into practice, not an atom of the fruits of human labour over and above what is necessary to bare existence, would be left in the hands by the labour of which it was produced. So much for principles :—or if another word be more agreeable, *theory*.

In Papers 6 and 7 may be seen—with what consummate consistency and perfection those same principles have been, and down to the present time continue to be, carried into practice : to how enormous and endless an amount has been swelled the mass of expense, employed under the notion of securing appropriate aptitude on the part of the head functionary in one of the departments ; namely, in that of *Justice* ;—and the degree of perfection, in which, in that same instance, the quality of *inaptitude* has had place : and how effectual the provision that has been made, for addition altogether boundless to

that same expense. Moreover, in Paper 7 may be seen—how, by the head functionary in another department, namely that of the Home-affairs—not only was support given to the system of predatory exaction, and thereby of expense, just mentioned,—and to the continuance of the official inaptitude also just mentioned,—but in his own department an addition, with (it is believed) unexampled wantonness, made, to the expense of offices subordinate to his own, and thereby to his own emolument; coupled with the inexorable establishment of a set of regulations, having for their most obvious and incontestable effect, not to say their avowed object, the exclusion of every efficient cause, and assignable presumptive proof, of official appropriate aptitude. Sole qualification required, eating and drinking; qualification decidedly rejected—of the several powers belonging to the very office in question, the habitual exercise.

Thus then may be seen—not only restricted, but by every day's practice continually confirmed and acted upon,—the theory to which expression may be given by the words—*official expense and official inaptitude, both maximized.*

When, in the career indicated by the words *expense maximized, aptitude minimized*, the ruling powers have proceeded for a certain length of time,—it will sometimes happen—that, by the fear of seeing their power drop

from under them, they will be induced to stop ; and even not simply to make a *stand*, but actually to make a *retreat* ; and that this retreat, when applied to expense, will be declared under the name of *retrenchment*.

All this while, the original opposite design, —the design of advancing in that same career, —continues, of course, in unabated force. For, the same cause which first gave birth to it, will, so long as man is man, make it grow with his growth, and strengthen with his strength. The design, however, not being altogether so acceptable to the people at whose expense, as it is to their rulers by whom, it is entertained and pursued,—hence the endeavour to impress on the minds of the people—instead of the apprehension of its existence—the opposite confidence. But, such is the force of truth, and of the nature of things, that whenever a design of this sort really has place, so it is that, by means of the very endeavours employed to dispel the apprehension of it, it is liable to be brought to light.

Whether, in the several instances of Edmund Burke and George Rose this result has not had its exemplification,—is among the questions, on which the reader will have to pronounce, should his patience have carried him through Papers the 4th and 5th.

Not unfrequently, those who, by delusive arguments, are labouring to inculcate an erroneous opinion, have, by those same or some other considerations, been themselves

involved in the like delusion; such is the influence exercised on the judgment by the affections. In the mind of George Rose, the existence of the power of self-deceit, in quantity more or less considerable, presented itself to me (I remember) as not improbable: in the mind of Edmund Burke, not a particle. In the mind of George Rose (means for observation not being wanting) there seemed to me to be no small portion of downright honesty and goodness of intention; in that of Edmund Burke, nothing better than matchless artifice.

To return to the subject of *retrenchment*. Just now, a shew of a design of this sort having been made, and in that track even some short steps taken,—among the topics, for some time proposed to be included in this miscellany, was that of *retrenchment*. But, after some progress made in relation to it, came into view, what ought to have presented itself from the first; namely, that the field of *retrenchment* is no other than the whole field of *expenditure*: the only difference being—that the points of view, in which that same field has to be contemplated, are, on the two occasions, opposite. This being borne in mind, time and space were seen joining in putting a peremptory *veto* upon any regular progress in that track: any progress, presenting, upon the face of it, any pretension to the character of a comprehensive one.

Seeing however, as above, one supposed proper seat and source of retrenchment—the

militia, in relation to which what had occurred to me had already assumed a determinate shape,—the quantity of space occupied by it being but small, admittance (it seemed) need not be refused to it. It forms accordingly the matter of Paper 9.

8. What is the *Navy* good for? Answer: to help defend Colonies. What are *Colonies* good for? Answer: to help support the *Navy*. Quere, what part of the national expenditure is kept up on the ground of this circle?

9. On the question—by the metropolitan country shall this or that distant dependency be kept up,—there are two *sides*—two *interests*—that require consideration: that of the metropolis herself and that of the dependency. To *Great Britain and Ireland*—say in one word to *Brithibernia*—would it be matter of advantage or disadvantage to surrender the dominion of *British India* to the inhabitants, as it surrendered to the inhabitants the dominion of the new Anglo-American United States? On the question whether it would be for the advantage of *Brithibernia*, much might be said on both sides. On the question, as applied to the nation of British India,—in the minds of those who have read the documents, and in particular the work of the so well-informed, intelligent and incontestably well-intentioned Bishop Heber,—scarcely can there be a doubt. By the withdrawal of the English regiments from British India, in what respect or degree would Hindoos or Mahometans

profit? Answer: In much the same as did the ancient *Britons* by the withdrawal of the *Roman* legions.

10. If, in the case of the several European powers, and other civilized nations and governments, security against *one another* were all that were sought for, at the hands of *standing armies* and *permanent navies*,—no less effectually might this security be procured and retained, by proportional *diminution* than by proportionable *augmentation*. But, by all of them, permanent military force, in one or both branches, whether needed or not, is prized at any rate as an instrument of security for themselves against their own subjects: security by means of intimidation: and security by means of delusive show and corruptive influence.

11. Now for *dead weight*. After having so much too long had its *habitation*, it has at length received its *name*. It was on the shoulders of the good woman who used to figure upon a halfpenny, a *wen*, or a *millstone* about her neck: either emblem may serve. But should the first be preferred, let not *imagination* take place of reason,—and, turning her back on the herein-above-proposed non-disappointment principle,—go on to say, *immedicabile vulnus ense recidendum est*.

12. Millstone or wen—it is among the blessings for which Brithibernia stands indebted to *Matchless Constitution*. In the Anglo-American United States, no such excrescence is known. Pensions, in compensa-

tion for wounds received,—and thence for the encouragement necessary to the engaging of men to expose themselves to such casualties,—Yes. But, pensions of retreat,—pensions for widows or orphans,—remuneration mis-seated or extravasated, in these or any other shapes,—none. As to extravasated remuneration, see Paper III, *Extract from Constitutional Code*.*

13. Exactly as necessary, exactly as reasonable, are pensions of retreat, et cætera, at public expense, for official men,—as for professional men they would be, or for artists, or for tradesmen, or for labouring men engaged in any other profit-seeking occupations.

14. Once upon a time,—in the Senate House of Gotham—a motion was made, to impose upon everybody a tax, and put the whole produce of it into everybody's pocket. Hear him! hear him! hear him! was the cry. The motion passed by general acclamation.

* [*Mis-seated and extravasated.*] To men conversant in the medical branch of art-and-science, the use and importance of *nosology* is no secret. Be the disorder what it may,—to it how can any cure, under it how can any relief, be administered,—unless it be *spoken* of? And, how can it be spoken of with best effect, unless a name, and that an appropriate and characteristic one, be given to it? As little to the practitioners in the body politic is this a secret, as to those in the body natural. But, under *matchless* constitution, the practitioners—having and being actuated by an interest at daggers drawn with that of the patient,—hence every idea and every expression, which contributes to throw light on the nature of the disorder, is, in proportion to the strength and clearness of that light, necessarily and uniformly odious: hence the endeavours to cause it to be regarded as ridiculous.

Quere, of the Gotham senate-house what was the distance from St. Stephen's?

15. Account to be taken. Account of the annual amount per head, of an average pauper on the Aristocratical pauper list called the Dead Weight, in each of its several classes, from the 50*l.* a year class to the 4000*l.* a year class inclusive, compared with the expense of the Democratical pauper list called the *Poor Rates*. Quere, how much longer will the real poor—the vast majority of the community—endure to see five hundred times as much thus bestowed upon one of their *bettors* (and such *bettors*!) as is bestowed upon one of themselves?

One of these days, two comparative accounts will be made up by authority; one, of the expense bestowed upon the democratical class of paupers; the other of the expence bestowed upon the aristocratical. How much, if anything, does the aggregate of the last-mentioned expense fall short of that of the former? Next to nothing. Think too of the length of *time*, taken by the one and the other, for arrival at their present magnitude. Calculate the length of time, at the end of which, while the democratical continues stationary, the aristocratical pauper-list will have out-run the interest of the national debt, as much as that same interest has out-run the annual sum applied to the maintenance of Government!

Look at him! there he sits! Prince of the

Aristocratical pauper-list, at this moment! Conservator of everything that is evil! Implacable enemy of every new thing that is good! Loaded with the spoils—of the injured, the afflicted, the helpless, the orphan, and the widow!

What is the number of Clerks, who after any number of years' faithful service, would not, with less compunction, be turned a-drift pennyless, than this man deprived of the addition thus made to so many hundred thousand pounds, accumulated by the delay, sale, and denial of justice*.—By disturbing

* Mode of connection between official service and official remuneration. In the character of a *Supplement* to the section, on Official Remuneration, as reprinted in the extract from the Constitutional Code,—matter under this head has for some time past been collecting. But, no great progress in it had been made, when the observation was also made, that *this* is but one modification, of the manner of bringing into coincidence the line of conduct prescribed by private interest, and that prescribed by public duty; and that—to complete the problem, what was requisite was the establishing the correspondent closeness of connection between maleficence on the one part, and punishment on the other part:—punishment, together with the several other *remedies*, which the nature of things admits of:—namely, satisfactory, suppressive, and preventive. Desirable and requisite is this coincidence in the case of official men,—true: but not more so than in the case of all other persons whatsoever.

These things observed, what was further observed was—on the other part, that the head to which this disquisition belongs is that of *Nomography* in general. But, in the collection of matter under this head, considerable progress had been already made. The art-and-science of clothing, in the best adapted form, the several modes of giving expression to the dictates of the *will*, may be considered as a hitherto unobserved branch of *Logic*: the

the peace, for the purpose of plundering the property, of families;—by setting children against parents, and parents against children;—by giving, of his own single authority, origination, execution, and effect, to institutions so

branch of art-and-science as yet designated by the name of *Logic*, being, as to its subject-matter, confined to the dictates of the *understanding*—a faculty not exactly the same with the *will*, though not far distant from it.

Nomography—(from a Greek word which signifies *law*, and another which signifies *to write*, or say *give expression to*)—is an appellation, which presented itself as capable of being made to serve, with most convenience, for the designation of the *logic of the will*. True it is, that between the will operated upon, and the will operating upon it, degree of relation in respect of *power*, there are three: namely, superiority, equality, and inferiority; and that, in the case of *nomography*, the relation borne by the operating will to the will operated upon, is no other than that of superior to inferior; and, as in the case where the will operating is that of the *superior*, the mode of address has its appropriate denomination; namely, in private life *command*, in political life, *law*, *ordinance*, and so forth,—so has it in the case where it is that of an *equal*; as for example, *proposal* or *proposition*; so likewise in the case where it is that of an *inferior*; as for example, *petition*, not to mention other appellations of a less decided character.

These things notwithstanding,—no sufficient cause presented itself to view, for considering the matter of this branch of art and science, as distributed under those denominations corresponding to the arithmetical distinctions, or for looking out for any other denomination than this of *nomography*; Why? *Answer*:—1. Because, in comparison of the occasions on which the expression of will receives the name of *law*, those on which it receives the two other denominations, are, when taken together, so much less important: the interest at stake being so much less considerable: 2. Because the *motives*, or say *inducements*, by which *compliance* (the effect aimed at) is produced, are not, in those cases, at bottom so different, as to a first glance they will be apt to appear to be: 3. Because, in respect of the

shockingly immoral, that neither he nor any other man in his place, would have dared so much as attempt to introduce the proposal of them, into either House of Parliament?

Of one of the states of things, held up to view in and by the *Defence of Economy against*

rules, having for their object and effect the securing the coincidence between the mode of conduct which it is the desire of the operating *will* to produce on the part of him whose will is operated upon, and the conception thereby entertained of that same will, the difference in the several cases is comparatively inconsiderable. Supposing the assortment of rules for this purpose correct and complete as applied to *law*,—nothing, or next to nothing, will require to be done, in the view of providing rules for those two *other* cases.

Should the papers thus denominated arrive at a state in which they will have been deemed fit to see the light,—it will then be seen—in what a variety of ways the effects of *imperation* in its two shapes, positive command, or say jussion, on the one hand, and prohibition, or say inhibition, on the other, are producible. Consequence of this variety, difference—in some cases between the effect intended, and the effect produced; in other cases, between the effect *appearing* to be intended, and the effect *in reality* intended. Cause of the difference—in the first case, want of discernment; in the other case, discernment applied to a sinister purpose.

Here then, in the political melo-drama, are so many *dramatis personæ*, who enter upon the stage in masquerade. Prohibition, disguised under the cloak of Positive Command; Positive Command or Permission, under the cloak of Prohibition; Permission, Remuneration and Encouragement, under the cloak of Punishment. Of this masquerade, under the head of *Indirect Legislation*, some intimation may be seen given, as long ago as the year 1802, in the *Traité de Legislation Civile et Pénale*,—in what is said of the effect of *fixed penalties*, in the Introduction to *Morals and Legislation*, titles *Properties desirable in a lot of punishment*, and *Proportion between Crimes and Punishments*,—in what is said under the head of *Blind fixation*, &c. in the *Petition for Justice*, Device the 8th; and in the work still in the press, intituled *Equity Dispatch Court Bill*, § 6. *Judge's Powers*.

Burke, namely, the state of the Crown Lands, a curious enough and highly instructive application may be made, to the now existing state of things, in the same quarter, as brought to light in and by the admirable speech so lately made in the Honourable House, by Mr *Whittle Harvey*. Estimated annual value of the Crown Lands obtained by *Somers* when Lord Chancellor, for his own use, year the 7th William the Third, A.D. 1695, or thereabouts, 2,100*l.* per annum. Of what remained after this grant,—produce, upon an average of fifteen years ending in 1715, 1,500*l.* a year, and no more; according to Mr Secretary Rose's pamphlet, intituled "*Observations respecting the Public Expenditure and the Influence of the Crown. 2nd Edition. 1810.*" Of the present remnant of that same remnant, annual value, according to various estimates, made by various members, varying between 500,000*l.* and 800,000*l.* Motion being made for a Committee of the Honourable House* to enquire by what means this portion of the national property "might be made most available for the public service," what was the course thereupon taken by the Honourable House? *Answer*:—That which, without the

* March 30, 1830. Motion for "a Select Committee to enquire into the Land Revenues of the Crown, under the management of the Commissioners of Woods and Forests, and to report their opinion as to the means by which they may be rendered most available for the public service."

imputation of rashness, a man might, by the wager of "ten thousand pounds to one penny," have pledged himself for its taking: It declined giving the Honourable Mover the trouble of any ulterior enquiry. "No enquiry" was the language: bring "*Your charge*;" that is to say—call for the *punitive* remedy, and not either the *preventive*, or the *suppressive*. Hear and determine without evidence; we being determined that you shall have none.

To this case, as to all others, applies one of the fundamental, characteristic, and distinctive principles of Matchless Constitution; namely, the *Judica-teipsum* principle. To enquire into the conduct of the Servants of the Crown belongs not to any men but themselves.

imputation of rashness, a man might, by the wager of "ten thousand pounds to one penny," have pledged himself for its taking: it declined giving the Honourable Member the trouble of any ulterior enquiry. "No enquiry," was the language; being "Your charge," that is to say—call for the punishment, and not either the preventive, or the suppressive. Hear and determine without evidence: we being determined that you shall have none.

To this case, as to all others, applies one of the fundamental, characteristic, and distinctive principles of Mithras's Constitution; namely, the *Justice-temper* principle. To enquire into the conduct of the Servants of the Crown belongs not to any man but themselves. The *Justice-temper* principle, as a proposed Constitution, will be published as soon as it is ready for the public. A table, composed of the titles of the chapters and sections of it, is printed and annexed. The class composed of the members of the civil establishment taken in its several branches was the subject in contemplation when the plan for the proposed year taken in hand. In the progress of the work, the plan occurred that, being the plan well adapted to its purpose, the case of the class thus distinguished, it might be so, in an small degree, in the case of any other persons whose situation in the world, without

INTRODUCTORY VIEW,

&c.

THE following tract, as the title of it imports, has for its subjects the appropriate aptitude of public functionaries, and the expenditure employed at the charge of the people in engaging persons to subject themselves to the obligation of rendering the correspondent services. It is composed of four sections, detached from the ninth of the thirty chapters, or thereabouts, of a proposed Constitutional Code, the entire of which, wanting little of completion, will be published as soon as circumstances permit. A table, composed of the titles of the chapters and sections of it, is hereunto annexed.

The class, composed of the members of the official establishment taken in its several branches, was the only class in contemplation when the plan here delineated was taken in hand. In the progress of the work, the idea occurred that, supposing the plan well adapted to its purpose in the case of the class thus distinguished, it might be so, in no small degree, in the case of any other persons whose situation in life would, without

any particular view to office, admit of the expenditure of the quantity of time and mental labour, which, with that view, is here proposed to be employed. But, what further may require to be said in relation to this secondary, and as it were collateral, subject, will be rendered more intelligible, by being postponed till after everything which belongs to the primary, and sole relevant, subject, has been brought to view.

Such being the *subjects*, now as to the *objects*, or say *ends in view*. These are, as the title of these pages intimates, maximization of the degree of appropriate aptitude in all its branches on the part of the functionary in question, and minimization of the expense employed in the creation and purchase of that same aptitude.

In this same title, a proposition fully expressed is—that, in the plan to which it gives denomination both these objects are endeavoured to be accomplished: a proposition not so fully, if at all expressed, but which will be seen maintained, is, that the accomplishment of the financial object, far from being, as seems but too generally supposed, at variance with that of the intellectual and moral, is, on the contrary, in no small degree, capable of being made conducive to it. A notion but too extensively entertained is—that, whatsoever, quantity of public money is employed in engaging individuals to step into official situations, relative aptitude in proportionate degree will follow as a matter of course: and that, for example, if, in the case of a chief judge, for 5,000*l.* a year salary, you get a certain quantity of appropriate aptitude, double the salary, and, without anything further, you double the aptitude. Such, at any rate is the opinion which, in England, whether inwardly en-

tertained or not, is outwardly and generally acted upon.

With this opinion, that which gives direction to the here proposed arrangements, so far from harmonising, approaches more nearly to the reverse: insomuch that, supposing a number of competitors, so far as instruction will go, endowed with equal degree of aptitude,—a man, who, if any such there be in the situation in question, is willing to take upon himself, without emolument in any shape, the performance of the duties of an office, is likely to perform them better, than another man who would not undertake it for less than 5,000*l.* a year: or even better than he himself would have done, if, on stipulating for that same sum, he had obtained it. In the course of the section entitled *Remuneration*, being the first of the four sections of which this tract is composed, this opinion, together with the grounds on which it rests, may be seen developed.

First comes the *appropriate aptitude*: and the problem is how to *maximize* it.

When, for the performance of a certain work, an *individual* finds himself in need of a helper, before he fixes upon any one, he naturally puts questions to any one that offers,—questions having for their object the obtaining satisfaction, as to the relative aptitude of the candidate: if, instead of *one* only, a number more than one presented themselves, he would, as far as time permitted, put those same questions to them all: and, in the putting of these questions, he would address himself to them separately, or all at the same time, as he found most convenient. In either way, by so doing, he would *examine* them; he, the *examiner*; they, the *examinees*. In private would the examination be of course performed in this case; for, on

this occasion, of no person other than the individual himself, would the interest or convenience be in view: by publicity, if obtainable, he would, and in proportion to the number of persons present, be embarrassed, and in no way benefited.

To the *functionary in chief*, who, for aiding him in the business of his department, feels the need of helpers in the businesses of the several sub-departments, their aptitude cannot in the nature of the case be a matter of indifference. His property will not, it is true, as in the case of the individual, be at stake upon the aptitude of his choice. His *property*, no; but his reputation, yes. If the subordinate chosen be to a certain degree unapt, the reputation of the superordinate will suffer in two distinguishable ways: by the badness of the work done under his orders, and by the weakness, or something worse, evidenced by the badness of the choice.

Under these circumstances, what can he do? For making, in his own person, any such examination as that which the individual, as above, has it in his choice to make, power is altogether wanting to him, for time is altogether wanting. To some person or persons other than himself, he must therefore have recourse for the formation of his opinion, and the determination of his choice. Who, then, shall they be? If, in each instance, the reporter, who in this case will be the recommender, be this or that individual,—what is *not* certain is,—that the giver of the advice will have had any better grounds for the choice than the asker: what is certain is, that he will not have had so great an interest in the goodness of the choice. For the goodness of *his* choice, the individual employed is not responsible to anybody but himself: the functionary is responsible to every-

body. In so far as he is proof against the temptation to serve his own particular interests and affections at the public expense, his wish will, therefore, be, to see located, in each situation, the individual in whose instance the maximum of appropriate aptitude has place. Unable as he is of himself to perform the examination, the persons to whom it will be his desire to assign the task will, in consequence, be those, in whom the maximum of appropriate aptitude with relation to this same task, is to be found. By this most general description the next most general description is settled: they will be the persons that are most distinguished in the character of *instructors* in the several branches of art and science in which it is requisite the persons to be located should be proficient.

In regard to the *number* of the persons present, the examination must, in this case, be either private or public. Which shall it be? Private, it might or might not be as satisfactory as if public, to *himself*; to the public, it would not be. But, supposing him wise, it would not be so satisfactory, even to himself. For, the more complete the cognizance taken of the proceedings of these examiners by the public, the stronger the inducement they would have, each of them, for rendering his proceedings as well adapted to the purpose as it was in his power to render them. Thus, then, we have the maximum of publicity as a necessary condition to the maximum of appropriate aptitude: of appropriate aptitude—in the first place on the part of the examiners, in the next place, on the part of the examinees, in their quality of persons locable in the several situations, say in one word, *locables*. Evidenced by the answers will be the

aptitude of the *examinees*: by the questions, that of the *examiners*.

Such, then, should be the *examination judicatory*. As to the *examinees*, by the opinion expressed by the votes of the members of this same judicatory, they will at any rate be placed in the list of persons more or less qualified for being located in the several official situations: as to their respective degrees of aptitude, in the judgment of the judicatory taken in the aggregate, they can be expressed by the several individual members. As to the manner in which the deduction may be made, it will be seen in § 2, of which *Locable who*, is the title.

Next subject, the *expense*: problem, how to *minimize* it. First expense, that of the instruction: next expense, that of remuneration for the services to be rendered by those by whom the instruction has been received.

For the instruction there must be the necessary apparatus of instruction: lands, buildings, furniture for every branch: appropriate implements according to the nature of each branch.

For administering the instruction there must, moreover, be instructors, and, for the instructors, subsistence, and remuneration in quantity sufficient to engage their services. As to the pockets from whence the expense is drawn, so far as regards subsistence—bare subsistence, together with the apparatus—they must, in the first place, be those of the public, for in this way alone can the sufficiency of it be secured. This being thus settled, such part of the remuneration as is over and above bare subsistence,—from what source shall it be drawn? Answer: from the pockets of those by whom alone the most immediate benefit

from the instruction is reaped: those, to wit, by whom it is received. From *them* it cannot come, without being accompanied with willingness, and followed by retribution; and the quantity of it will of itself increase in exact proportion to the number of those benefited by it: in which case it will, in the same proportion, *be a bounty upon industry* on the part of the instructors. Drawn from persons other than those by whom the immediate benefit is reaped, it would neither be accompanied with willingness, nor followed by retribution. And, if it were, as it naturally would be, a fixed sum—a sum not depending for its quantity on the exertions of the instructor to whom it is given—it would be a *bounty upon idleness*.

Next comes the expence of the remuneration to the intended functionaries; remuneration for the time and labour requisite to be expended on their part; before location, in qualifying themselves for rendering their several official services; after location, in the actual rendering of those same services.

For this purpose, the nature of the case presents three distinguishable modes: 1. In compliance with appropriate calls, offer to take a less salary than that which has been proposed; 2. Offer to pay a price for it; 3. Offer to submit to its being reduced to a certain less amount, and then to pay such or such a price for it, after it has been so reduced. The two first modes are simple; the third, a compound of the two: all these will have to be considered.

A point all along assumed is—that, in each office there is but one functionary: in a word, that no such implement as a *board* has place anywhere. Assumed, and why? Answer: for these reasons: All advantages that can have been

looked for from a *board* are better secured by other means: in particular, by maximization of publicity and responsibility; and because the exclusion of this instrument of intrigue and delay is not less essential to aptitude than to economy. Moreover, these reasons may, as will be seen, be applied with still greater profit, to the judiciary, than to the executive, branch of government.

After all, neither by the intellectual competition, nor by the pecuniary competition, nor by both together, can the individuals, by whom the situation shall be filled, be finally determined. For the formation of this determination, there will still be need of some one person, or set of persons, in quality of *locator* or *locators*. By reasons, the essence of which is contained in the word *responsibility*, the choice has, in this case likewise, been determined in favour of number *one*.

This one person can be no other than the functionary in chief, under whose direction the functions belonging to all the several situations in question are to be exercised. As to his choice, it cannot but be influenced, not to say directed, by information which the examinations have put the public in possession of, as to the merit of the respective candidates; but, it will not, because it cannot, be determined by any positive rule. By all that has been done, or can be done, towards divesting the power—the *patronage*, (for that is the name of it,) of the quality of *arbitrariness*,—it will not therefore be by any means divested of value, or sunk beneath the acceptance of a person competent to the task of exercising it.

In the annexed table of chapters and sections, will be seen a list of the several ministerial situations to be filled. *Prime minister* will be the natural appellation, of him by whom those are thus

filled, and by whom the exercise of the functions respectively belonging to them is directed. In § 3, intituled *Located law*, will be seen how this consummation is proposed to be effected.

But, once more as to the *instructors*. After whatsoever may have been done for engaging them, remains still the question—*where* can they be obtained? Three sources of obtainment, and no more, does the nature of case afford: they must be *found* at home, they must be *made* at home, or they must be *imported* from abroad. In each of these three modes, *invitation* is necessary. *Formation* is, in this case, an operation pre-eminently tedious: and the *formators*, where shall they be found? To find or make them would be to remove a smaller, by a greater difficulty. Different, according to the circumstances of the community in question, will, in this particular, manifestly be the eligible course.

Now as to the collateral subject, *national* education, and the assistance which the arrangements proposed for the instruction of official functionaries would give to it. What is manifest here is, that whatever is good, as applied to functionaries, will not be otherwise than good, as applied to non-functionaries: whatever promotes useful instruction in any shape in the one case, will promote it in that same shape, in no less degree, in the other. The only difference is—that, in the case of *national* education, that is to say, in the case of a youth educated at the charge of his parents,—for occupations other than the exercise of a public function,—there will be no service for the public to buy, no salary for the public to sell: and, the taking the benefit of the instruction provided will, on the part of each individual, be—not matter of necessity, as in the case of an official situation, but

matter of choice. It was of course with a view to office alone, that the idea occurred, of bringing to view the several branches of instruction, that appeared requisite to give to public men the best qualification possible for the several classes of offices. But, as far as it goes, this same exhibition will be of use, with a view to no small variety of private occupations. When proposing for his child this or that occupation, the parent will find in this table, if not a sufficient body of information, a memento, at least, reminding him of the need of his satisfying himself as to what are the branches of instruction to which the mind of his child shall be directed, and of his looking out accordingly for an appropriate set of instructors.

As to instructors,—of whatsoever degree of aptitude will have been given to persons of this class, for the purpose of the instruction to be given by them to functionaries, the benefit will be open to non-functionaries: they who are able and willing to instruct the one, will not be less so to instruct the other.

So much as to *aptitude*. And as to *expence*,—of the expenditure necessary to the instruction of functionaries, a part, more or less considerable, will have been employed in the obtainment of means of instruction, which, without detriment to the one, may be employed in the instruction of the other. Of all such means the non-functionary class may have the benefit, without paying for it, any further than in their quality of members of the whole community, they had necessarily been made to pay, along with all others, for the instruction of the functionary class.

To a plan of this sort, various objections will of course present themselves. These, as far as they

could be anticipated, are here collected, and such answers as seemed sufficient, subjoined.

For conveying a general conception of them, the few words following may, in this page perhaps, suffice.

I. Objection to the publicity of the examination.—*Timid aptitude excluded.*

II. Objection to the probationary period proposed for the instruction.—*Time, thence aptitude, insufficient.*

III. Objections to the pecuniary competition:—

1. Pecuniary responsibility diminished—thence corruption and depredation probabilized.

2. *Venality established.*

3. *Unopulent classes excluded, and thus injured.*

In the perusal of the here proposed arrangements, one thing should all along be borne in mind. The *sort* of government supposed by them is a representative democracy: the *time* in question that of the infancy, not to say the birth, of the state in that same form: such being the state of things, in which, in the largest proportion, the information endeavoured to be conveyed, could have any chance of being listened to.

But, in the several subordinate situations, even supposing the highest to be filled by a monarch, not inconsiderable is the number of those of the proposed arrangements, which, in the eyes even of the monarch himself, might be not altogether unsuitable. For, setting aside any such heroic endowment, as that of sympathy for the people under his rule,—to a monarch, however absolute, neither can appropriate aptitude on the part of his official servants, nor frugality in respect of the pay allotted to them, be naturally unacceptable. The more completely security, in all its shapes, is given to the subject many, the greater is the quantity

of wealth they will acquire; and, the greater the quantity they acquire, the greater is the quantity that can be extracted by him from them, for his own use: in particular, for the maintenance of his *standing army*—that high-pressure, high-priced and most supremely prized, engine, which is at once an instrument of supposed security for the timid, of depredation for the rapacious, of oppression for the proud, of boasting for the vain, and a toy for the frivolous and the idle: and, as to frugality, the less is expended in the comfort of any part of the subject many, the more is left for the fancies of the ruling one.

Setting aside the case of a pure aristocracy,—a form of government no where exemplified to any considerable extent,—one only form there is, in which maximization of official aptitude, and minimization of expense, are of course objects of congenial horror to the rulers. This is that, the composition of which is a mixture of monarchy and aristocracy, with a slight infusion of democracy in the shape of a sham-representative body, in the formation of which the subject many have a minute share. In this state of things, expense of official emolument is maximized, and why? That the possessors may be pampered by the receipt of it, the people intimidated by the force kept up by it, corrupted by the hope of it, and deluded by the glitter of it. Aptitude is, at the same time, minimized, and why? Because, if the contents of the cornucopia were distributed exclusively among the most apt, those junior partners of the all-ruling one, with their dependents and favourites, would have little or no share in it.

Four distinguishable sorts of matter may be seen pervading the whole texture of this extract: the *enactive*, the *expositive*, the *ratiocinative*, and

the *instructional*. Of these, the enactive, the expositive, and ratiocinative, have already been exemplified in the three-volume work, intitled, “*Traité de Legislation Civile et Penale*,” being the first of the four works published in French, from the author’s papers, by M. Dumont. Had the political state, to the circumstances of which the codes in question were to be adapted, been, as mathematicians say, a *given quantity*,—the *instructional* might not perhaps have been brought into existence: at any rate, it would not have occupied anything near the quantity of space, which it will be seen to occupy here. But, the indeterminate-ness of these circumstances impossibilized, on many occasions, the giving to the matter the form of a positive enactment, capable of standing part of the text of the law, as in the case of a code emanating from authority. Necessitated was therefore the expedient, of employing, instead of determinate expressions, general descriptions,—for the purpose, of conveying such idea as could be conveyed of the matter of the provision, which the nature of the case presented itself as demanding. By the *instructional* matter is accordingly meant the sort of matter, the purpose of which is the giving instructions to the legislator, if the tide of events should ever carry into that situation a man, or body of men, to whom it seemed good, to give to such part of the matter as could not here be expressed *in terminis*, a character conformable in principle, to those parts, for which an expression thus completely determinate, has already been proposed.

Such being the distinctive characters of the parts in question, by some minds, it was thought, it might be found a commodious help to conception,

if, as often as they presented themselves, applicable indication were given of them throughout, by prefixing to each portion of matter its appropriate denomination as above. To any person, to whom these additaments appear useless, they need not offer any annoyance,—for he has but to pass them by, and read on, as if no such words were there.

Of a code, to which the stamp of authority had been affixed, these distinctions would afford a commodious method of exhibiting so many authoritative abridgments: abridgments of the only sort, on which any safe reliance can be placed. By the enactive part, if published alone, the most condensed of all the abridgments would be presented; by appropriate types and figures of reference, intimation of the existence of the omitted matter might be conveyed, without any sensible addition to the bulk of it. In another edition, might be added the expositive matter; in a third, the expositive and the ratiocinative in conjunction.

In England, a highly laudable disposition has of late shown itself, and from a quarter from which it might be followed by effect:—a disposition to raise the language of the legislator to a level, in respect of propriety, somewhat nearer than that which it occupies at present, in comparison with the worst governed among other civilized nations, whichever that may be. A design so extensively useful, would indeed stand but an indifferent chance of being carried into effect, if the fraternity of lawyers, professional as well as official, could not find adequate inducement for giving it their permit. But neither is such toleration altogether hopeless. What that particular interest requires, is—that the rule of action shall continue in such a

state, that, without their assistance, comprehension of it, to a degree sufficient for the regulation of conduct, should, to all other members of the community, continue impossible. But, such is the excess to which the bulkiness and disorderliness of it have been carried ;—such, in consequence, even to themselves, the difficulty of stowing it and keeping it stowed in the mind, in a state capable of being applied to use as wanted ;—that, for their own relief under that difficulty, the risk of rendering the oracle too extensively and effectually comprehensible, may perhaps appear not too great to be hazarded.

This being supposed,—a result, that seems not altogether out of the sphere of possibility, is—that even those to whom the *matter* of all such codes as those here exemplified is—it need not be mentioned by what causes—rendered the object of insurmountable abhorrence,—the *form*, as far as regards *arrangement* and *expression*, may, in a degree more or less considerable, be regarded as a subject for adoption. To any person by whom it may have happened to be viewed in this light, the intimation conveyed by the words *enactive*, *expositive*, and *ratiocinative*, may perhaps appear not altogether devoid of use. In the case of the series of codes to which the present extract belongs,—in proportion as the *matter* presented itself, the *form* in which it might be presented, it was thought, to most advantage, came along with it. Thus it was, that, as they were committed to paper, explanations, belonging to the head of *form*, became so many materials for a short disquisition, which may perhaps be submitted to the public in a separate state. But, even from the small specimen here exhibited, it may be perhaps in some sort conceived, how great would be the contribution to condensation, as well as precision,

if the expedient were employed, of substituting to the continued repetition of a portentous pile of particulars, that of a single general expression, in which they were all contained: the import of that expression having, once for all, been fixed,—fixed, by an appropriate exposition, in the ordinary mode of a definition *per genus et differentium*,—or, where that is inapplicable, in such other mode as the nature of the case admitted of.

Between the several sorts of matter, distinguished from each other as above,—the actual separation, it cannot but be observed, has not, with any approach to uniformity, been, on this occasion, made. In one and the same article, two, or even more, of these species, will not unfrequently be found exemplified. In an authoritative code, this want of symmetry might, supposing it worth while, he remedied. In the present unauthoritative work, the difficulty of separating the proposed *enactive*, and the *instructional* from each other, was found so great, that the necessary labour and time (which would have been neither more nor less than that of writing the whole anew), was felt to be too great, to be paid for by any possible use. In like manner, in other instances, the *ratiocinative* will be seen blended with the *enactive*. In an authoritative code, the labour might, perhaps, in this case, though this does not appear altogether clear, be paid for by the use: for example, for the purpose of an authoritative *abridgment*, such as the one above proposed. But, in the present unauthoritative sketch, a mixture of the *ratiocinative* presented itself as desirable, not to say necessary, were it only to the purpose of humectating the dryness of the enactive matter, and diminishing the aversion, which a set of arrangements, so repugnant to commonly-prevailing notions and affections, would have to en-

counter, if inducements to acquiescence were not in some shape or other mixed up with it.

In a *civil*, or say a *right-conferring* code (for *civil* expresses so many different things that it expresses nothing), and in a *penal*, or say a *wrong-repressing* code, especially if made for a *given* political state, the separation would be a work less difficult than it has been found in the present one: accordingly, in the *Traité de Legislation*, it may, in both instances, be seen effected.

In that part of the present proposed code, which regards the *judiciary establishment* the heads of which may be seen in the annexed table, the separation will be found much less imperfect.

Another particular, which will naturally call forth observation, is the practice of adding to the numerical denomination of a section when referred to the *title* by which it is characterised. In authoritative codes an additament of this sort is not however without example. In the present unauthoritative sketch it has been matter of necessity. By the author, nothing he writes, in the character of a proposed code or law, can ever be regarded as perfected, so long as he lives: in the proposed code in question, alteration after alteration have, in great numbers, at different times, been actually made: further alteration after further alteration will continually be contemplated: and wherever, in regard to an entire *article*, either insertion or elimination have place, all the articles which follow it in the same section will require a fresh numerical denomination, and the anterior reference, if preserved, will be found delusive: and so in the case of *sections* or *chapters*.

Into what is new in point of form, a further insight will, it is hoped, ere long, be given, by another and larger preliminary extract from the

present Constitutional Code : to wit, the *judiciary* part above alluded to. The *enactive* matter, combined with what seemed the indispensable portion of the other sorts of matter, is already in a state fit for the press, as likewise a considerable portion of the *ratiocinative* and *instructional*, in a detached state. From the annexed table of the titles of chapters and sections for the whole, an anticipation more or less extensive may be formed of the instruments, which have been contrived for the purpose of *compression*, and may be regarded as a sort of *condensing engines*: a principal one may be seen composed of the general word *function*, followed by the several specific adjuncts attached to it. In several of its parts the matter of this same *judiciary* code could not be determined upon, without correspondent determinateness being given to correspondent portions of the *procedure* code: a code for this purpose is in such a state of forwardness, that all the principal and characteristic points are settled, and nothing remains to be done, but the reducing to appropriate form some portion of the matter which has been devised.

In this work will be included, as far as circumstances admit, an all-comprehensive *formulary*, exhibiting forms for the several written instruments of procedure; in particular the instruments of *demand* and *defence*, for suits of all sorts; as also forms for the *mandates* required to be issued by the judge, on the several occasions, for the several purposes: and for each mandate an appropriate *denomination* has of necessity been devised. On this occasion, as on every other, the endeavour has all along been to render the instrument of designation as characteristic as possible of the object designated. *Summonition mandate*

will accordingly be seen taking place of *sub-pæna*; *Prehension* and *adduction* mandate of *capias* and *habeas corpus*: and, in lieu of *adduction*,—as the purpose requires, will be subjoined *abduction*, *transduction*, *sistition*, *sequestration*, *vendition*, and so forth; an appellation, such as *prehension*, and *vendition* mandate, for example, may, it is hoped, be found by lay-gents to constitute no disadvantageous substitute to *fieri facias* or *fi fa*:—to *lay-gents*, that is to say, to all human beings, but those whose interest it is that every thing by which human conduct is undertaken to be regulated, should be kept to everlasting in as incomprehensible a state as possible.

Demand paper will, in like manner, for all occasions taken together, be seen substituted, to the aggregate, composed of *action*, *mandamus*, *bill*, *indictment*, *information*, *libel*, and so forth: *defence paper*, to *plea*, *answer*, *demurrer*, and so forth: for, if artificial injustice has its language, so has natural justice. But time and space join in calling upon conclusion to take place of digression.

With the regret that may be imagined, does the reflection occur—that, as far as regards the diction, there are but too many political states, in which the above-mentioned views, supposing them approved of, could not be carried into any such full effect, as in those in which the language in use is the English: for, with the exception of German, there exists not, it is believed, any where that language, which will lend itself, anything near so effectually as the English, to the formation of such new appellatives as will be necessary to precision and condensation: in particular the French, which, notwithstanding its scantiness, unenrichableness, and intractability—still seems destined to continue—say who can how much longer—the common language of the civilized world.

For a particular purpose, the present extract has been sent to press, before the proposed code to which it belongs, and in which it is designed to be inserted, could be completed. Hence it is that, but for this information,—the numerical figures, in the titles to the several sections, might be taken for so many *errata*, or have the effect of giving to the whole publication the appearance of a fractional part of a work that has been lost.

This same circumstance will serve to account for the *headings* of the pages.

It may not here be amiss to observe, that of the bulk of the work in its complete state, no judgment can be formed, from the space occupied by the three first of these four sections. The *enactive* part of the first four chapters together, for example, does not occupy so large a space as does the least of these same three sections.

Amid so much innovation, a short caution may be not altogether unseasonable. In the frugality here recommended, no *retroaction* is comprised. By the taking away of anything valuable, either in possession, or even, though it be but in expectancy, so it be in fixed expectancy, whether on the score of remuneration, how excessive soever, or on any other score,—pain of *frustrated expectation*—pain of disappointment is produced. In the import of the above words *fixed expectancy*, is contained whatever is rational and consistent with the *greatest happiness principle*, in the pertinacity, manifested by the use of the English parliamentary phrase, *vested rights*: and note—that by forbearing to apply the alleviation which, by the defalcation in question might be given, in respect of the public burthens, to persons of all classes taken together, no such pain of disappointment is produced.

As little ought it to pass unheeded, that, sup-

posing a high-paid functionary divested of a certain portion of wealth thus misapplied, he is not, by a great many, the only sufferer: with him will be sufferers all persons of all classes, in proportion as their respective means of expenditure were derived from his. Supposing, indeed, the over-pay derived from *crime*—obtained, for example, by false pretences, by this supposition the case is altered. But, add the supposition, that all by whom the punishment should be ordained, or that all by whom a part should be taken in the infliction of it, are sharers in the guilt, then comes the question—By whom shall be cast the first stone? An Englishman need not look far to see this supposition realised. Prudence might in this case join with sympathy, in the constructing a bridge of gold, for carrying to the land of safety all opponents. Only at the expense of those, who would otherwise have been, but never will have expected to be, receivers,—can *retrenchment*, on any other ground than that of *punishment*, be, except in case of public insolvency, without hesitation, justified.

On the occasion of the ensuing proposed arrangements, mention of divers periods of years has of necessity been made. It might have been some help to conception, if, on the occasion of this or that train of suppositions, a determinate day could have been fixed, for the commencement of each period. This, however, could not be done. For different countries, different days would have been requisite. For this country,—England to wit,—the day may be fixed by imagination with something like precision. The day for the commencement of this Code with the stamp of authority on the first page of it, is the day which will give commencement to the hundred and first year, reckoning from the day on which the author

will have breathed his last. In the mean time, to those who have the faculty of extracting amusement from dry matter, it may serve as a second Utopia, adapted to the circumstances of the age. Of the original romance, it may, however, be seen to be—not so much a continuation as the converse. In the Utopia of the sixteenth century, effects present themselves without any appropriate causes; in this of the nineteenth century, appropriate causes are presented waiting for their effects.

END OF THE INTRODUCTORY VIEW.

will have been the last. In the mean time, to the extent of the faculty of extracting answers from the matter, it may serve as a second source, related to the circumstances of the age, and the original romance, it may, however, be said to be—not so much a continuation as the converse. In the Utopia of the sixteenth century, effects present themselves without any appropriate causes; in this of the nineteenth century, appropriate causes are presented waiting for their effects.

EXTRACT

THE

END OF THE INTRODUCTORY VIEW

THE
CONSTITUTIONAL CODE
OF THE
UNITED STATES
OF AMERICA
AS AMENDED
TO THE
ORIGINAL
TEXT
BY
THE
SEVERAL
CONGRESSES
AND
BY
THE
SUPREME
COURT
OF THE
UNITED STATES
OF AMERICA
IN
THE
YEAR
OF OUR
LORD
ONE
THOUSAND
EIGHTEEN
HUNDRED
AND
EIGHTY
FOUR

EXTRACT

FROM PROLOGUE

CONSTITUTIONAL CODE

E X T R A C T

FROM PROPOSED

CONSTITUTIONAL CODE.

EXTRACT

FROM THE PROPOSED

CONSTITUTIONAL CODE

OF THE

OFFICIALS OF THE MAXIMIZED

EXPENSE MINIMIZED

FROM THE PROPOSED

CONSTITUTIONAL CODE

BY JEREMY BENTHAM, ESQ.

ESQ. OF LINCOLN'S INN

LONDON

PRINTED

E X T R A C T

FROM THE PROPOSED

CONSTITUTIONAL CODE,

ENTITLED

OFFICIAL APTITUDE MAXIMIZED,

EXPENSE MINIMIZED.

BY JEREMY BENTHAM, Esq.

BENCHER OF LINCOLN'S INN.

LONDON:

MDCCCXVI.

EXTRACT

FROM THE PROPOSED

CONSTITUTIONAL CODE

OFFICIAL ATTITUDE MAXIMIZED.

EXPENSE MINIMIZED.

BY JEREMY BENTHAM, ESQ.

LONDON :

PRINTED BY C. H. REYNELL, BROAD STREET, GOLDEN SQUARE.

§ 15. REMUNERATION.

Ratiocinative and Instructional.

ART. 1. *Aptitude maximized; expense minimized.*
Indicated in these few words are the leading principles of this Constitution on the subject of remuneration.

Ratiocinative and Instructional.

ART. 2. As to maximization of official aptitude in this department, for the course taken in this view, see also the next section, § 16. *Locable who.*

Ratiocinative.

ART. 3. Subservient even to the maximization of aptitude is minimization of expense. For,

1. Whatever be the occupation belonging to the office, the greater a man's relish for it is, the greater his aptitude for it is likely to be.

2. The less the remuneration, in consideration of which he is willing to exercise these same occupations, the greater is his relish for them.

3. Greater still, if, instead of receiving, he is willing to pay for the faculty of exercising them.

Ratiocinative.

ART. 4. So, on the other hand, the greater the expense employed in remuneration, the greater will be the opulence of the functionary so remu-

nerated. But the greater his opulence, the less his appropriate aptitude will naturally be. For,

1. The less will be his activity.
2. The greater his facility for engaging in merely pleasurable and other rival occupations.
3. The greater his facility for obtaining accomplices in transgression, and supporters to shield him against dislocation, punishment, and disrepute.
4. The more apt to form an exaggerated estimate of the quantity of the expense for which, at the charge of the public, there may be, on each several occasion, a demand.

5. Altogether fallacious is the notion, by which, to the purpose of repression of wrong, responsibility is regarded as increased by opulence. By man's nature, every the poorest individual is rendered susceptible of more suffering, than, in any case, is ever thought fit to be inflicted for the purpose of repression by means of punishment: altogether fallacious this notion, and, under a corrupt form of government, invented for no other purpose than that of affording a pretence for needless, wasteful, and corruptive remuneration; remuneration, and to a vast extent, in cases where the absence of all service is notorious and undeniable.

Ratiocinative.

ART. 5. Minimization of expense is therefore an object here pursued, not only as being itself an end, but as being a means of attainment, with relation to that other end. One and the same, accordingly, as per § 16, is the road that leads to the attainment of both these ends.

Ratiocinative.

ART. 6. So far as regards remuneration, mini-

mization of expense, in relation to all, can no otherwise be effected, than by minimization in relation to each. In relation to each, in each official situation, note this rule: Having by appropriate courses, as per § 16. *Locable who*, maximized the number of persons possessed of the maximum of appropriate aptitude, ascertain from each the minimum of remuneration for which he will be content to charge himself with the official obligations. Modes of ascertainment are every where in use. Competition is no less applicable to the price of labour than to the price of goods; to one sort of labour than to another; to labour in the service of the public than to labour in the service of an individual. So much for minimization of expense, separately considered. As to the arrangements of detail, for the union of minimization of expense with maximization of aptitude, see the next sections, 16. *Locable who*, § 17. *Located, how*.

Ratiocinative.

ART. 7. Exercised, by a public functionary, at the expense of the public, *liberality* is but another name for waste. Combined in its essence are breach of trust, speculation, depredation, oppression, and corruption. Exercised, to a good end, and at a man's own expense, liberality is a virtue: exercised, at the expense of others, and without their consent, it is a vice: laudation bestowed upon it, hypocrisy and imposture: its fruits, the above evils: the good, if any, on the smallest scale; the evil, upon the largest.

Ratiocinative and Instructional.

ART. 8. Repugnant accordingly to these principles is remuneration, in any shape, on any

occasion, *arbitrarily* conferred : repugnant, even if for service really rendered, or about to be rendered ; much more if on false pretence of service.

Ratiocinative and Instructional.

ART. 9. Arbitrarily conferred, consistently with these principles, can neither good nor evil be by the hand of Government : neither reward nor (as per Penal Code) punishment ; nor (as per Ch. xxv. JUSTICE MINISTER, § 4. *Dispunitive Function*) exemption from punishment.

Expositive.

ART. 10. *Arbitrarily* conferred is the matter of reward, so far as by the hand of Government it is otherwise than *judicially* conferred. Judicially conferred will accordingly be seen to be all official situations, in relation to which location is performed, as per § 17. *Located, how.*

Ratiocinative and Instructional.

ART. 11. On no other account than that of service to the public, can the matter of reward be conferred by the hand of Government, except in so far as it is bestowed in waste.

Expositive.

ART. 12. *Ordinary* and *extraordinary* : under one or other of these denominations comes all service rendered, or supposed to be rendered, to the public.

Expositive.

ART. 13. In the case of a public functionary, by ordinary service understand all such service as, by acceptance of his office, he stands bound to render.

Expositive.

ART. 14. By extraordinary service, all such service as, by such acceptance, he does not stand bound to render.

Expositive.

ART. 15. *Pecuniary* and *honorary*: by one or other of these denominations may the matter of reward be designated, in every shape in which it is usually bestowed by the hand of Government.

Ratiocinative and Instructional.

ART. 16. For extraordinary service rendered to the public, reward in a *pecuniary* shape may, with as much facility and propriety, be demanded at the hands of a Judicatory at the charge of the public, as in the like shape it is so demanded at the charge of an individual.

Ratiocinative and Instructional.

ART. 17. With not less facility and propriety, so may it in an *honorary* shape.

Enactive and Instructional.

ART. 18. Honorary reward in no shape does this Constitution allow to be conferred, but in the shape of *natural honour augmented*: augmented by the hand of Government; and in this case the hand of Government, is, as per Art. 20, the hand of justice.

Expositive.

ART. 19. By *natural honour*, understand that which, in consideration of service, in this or that extraordinary shape, rendered to the community or to this or that section of the community, the members of it, in their quality of members of the *Public Opinion Tribunal*, spontaneously render to

the *benemeritant*: render, that is to say, by means of appropriate sentiments of love and respect, entertained in relation to him, with the occasional addition, of the special good will, good offices, and services, in whatever shape, tangible or intangible, naturally flowing from these sentiments.

Enactive and Expositive.

ART. 20. *Judicially augmented will natural honour* be by two conjunct and correspondent appropriate judicial decrees; the first *opinative*, the other *imperative*, in this as in other cases: as to which, see Art. 22, and Ch. xii. JUDICIARY COLLECTIVELY, § 9. *Judges' Elementary Functions.*

Enactive.

ART. 21. Efficient causes of the augmentation in this case, are, authoritative *recording* and authoritative *publication*.

Enactive.

ART. 22. Authoritative recording is by entry made in an appropriate Register Book: say, in the *Extraordinary Service Register*, or say, *Public Merit Register*.

Enactive.

ART. 23. Of such entry, the matter is composed of an abstract of the record of the proceedings in a suit, in conclusion of which the judicial decrees, as per Art. 20, have been pronounced: 1. the *opinative*, stating the act deemed meritorious, the *shape* in which the service has been rendered to the public, and the fact that the individual, by or for whom the demand of the reward is made, is *he* by whom the service has been rendered, with the *evidence* on which the

decree has been grounded;—time, place, and manner mentioned: 2. the *imperative*, ordering entry to be made of this same abstract in the above-mentioned Merit Register.

Enactive.

ART. 24. The commencement of the suit is by application, made to the Judicatory, demanding for the alleged *benemeritant* a place in the *Public Merit Register*, on the ground of the extraordinary service thereupon stated; as in the case of an ordinary application for money, alleged to be due from defendant to applicant on the ground of work performed.

Enactive.

ART. 25. The *applicant*, that is to say *demandant*, may be either the alleged *benemeritant*, or any person for him, with or without his consent, and with or without his knowledge.

Enactive.

ART. 26. The *defendant* will be the functionary, who would be defendant, were the subject of the demand-money alleged to be due from Government for goods furnished, or work done, otherwise than in the way of official service; namely, the *Government Advocate* of the immediate Judicatory, as per Ch. xviii. IMMEDIATE GOVERNMENT ADVOCATE; or the Government Advocate-General, as per Ch. xix. GOVERNMENT ADVOCATE-GENERAL, if so he thinks fit.

Enactive.

ART. 27. The *Judicatory* will be the immediate Judicatory of the sub-district in which the metropolis of the state is situated; unless, for special reasons, assigned by the Legislature, or the Prime

Minister, the immediate Judicatory of some other sub-district shall have been appointed.

Enactive and Instructional.

ART. 28. *Authoritative publication* is by publication, given, in such way as the Legislature shall have appointed, to the matter of the recondation-entry, made, as per Art. 23, in the *Public Merit Register*.

Enactive and Instructional.

ART. 29. Repugnant, accordingly, to the principles of this Constitution, is all *purely factitious honour or dignity*, in whatever shape, conferred, as hitherto it has every where been, *arbitrarily*; that is to say, otherwise than *judicially*, as above.

Expositive.

ART. 30. *Titles of honour, or ensigns of dignity.* To one or other of these denominations may be referred the instruments, by which factitious honour or dignity has usually been conferred. Combined, to a considerable extent, they have been with one another, and in many instances with masses of power, or wealth, in various shapes, or both.

Expositive.

ART. 31. Examples of *titles of honour* are—

1. Prince.
2. Arch-Duke.
3. Grand Duke.
4. Duke.
5. Marquis.
6. Count or Earl.
7. Viscount.
8. Baron.
9. Baronet

10. Knight—to wit, of any one of a variety of orders.

11. Knight—of no order.

Expositive.

ART. 32. Examples of ensigns of dignity, worn about the body of the individual are—

1. Stars.
2. Crosses.
3. Ribbons.
4. Garters.
5. Gold and silver sticks.

Expositive.

ART. 33. Examples of *ensigns of dignity*, exhibited on utensils of various sorts, employed by the individuals, are as follow:—

1. Coronets, of various shapes, corresponding to the several titles of honour.
2. Armorial bearings.

In this latter case, the assertion conveyed, though in most instances contrary to truth, is—that some ancestor of the individual had employed himself in an enterprise of unprovoked slaughter and devastation. For a symbol, if requisite, a *gibbet*, substituted or added, would have been more suitable.

Ratiocinative and Instructional.

ART. 34. To the purpose of remuneration, whether for ordinary or extraordinary service,—unsuitable, in comparison of *natural honour augmented*, as above, would merely *factitious honour* be, as above, even if *judicially conferred*. For, with the utmost conceivable accuracy, in each individual instance, does the quantum of natural

honour adjust itself to the quantum and merit, in every shape, of the service: the lots of reward, attached to the aggregate number of services rendered within a given time, thus rising, one above another, in gradations which may be as numerous as the individual services themselves. Thus it is, that, in this mode of remuneration, not a particle of injustice can ever have place, except that which, as in all other cases, is liable to be produced by deceptiousness on the part of the evidence, or want of aptitude on the part of the Judge; and, by the supposition, this danger is the same in both cases.

On the other hand, where it is of *factitious honour* that the reward is composed, no such accuracy of adjustment can have place. Between grade and grade, how numerous soever the grades, there must always be a space more or less considerable; each such space is consequently a field of possible injustice, the magnitude of which is as the amplitude of such space. But, proportioned to the magnitude of each such space, is the discouragement, applied to the most meritorious of two or more services, to which the same lot of *factitious reward* is applicable. For if, for the rendering of each of them, sacrifice in any shape is necessary, in such sort that greater sacrifice is necessary in the case of the most than in the case of the least valuable of the two, the identity of the reward in both cases operates as a premium on the least valuable—as a prohibition on the most valuable. Moreover, in the case of the *factitious honour*, the justice of the decree is exposed to a degree of disbelief, and the Judge to a degree of disrepute, for which, in the case of the *natural honour*, there is no place. In the case of the *factitious honour*, it is by *the Judge* that the exact place in the scale of honour is determined, since

it is by him that it is conferred, in the shape of some *title of honour*, or some *ensign of dignity*, which has a specific name. In the case of *natural honour*, it is not by the Judge, but by the *Public Opinion Tribunal*, that, in each individual instance, the *benemeritant's* place in the scale of honour is determined. The Judge may be corrupt, or (what, so far as regards the individual case, amounts to the same thing) may be suspected of being so; the *Public Opinion Tribunal* cannot.

Enactive, Ratiocinative, and Instructional.

ART. 35. Sufficient of itself for the destruction of this Constitution might an instrument of corruption of this sort be, if arbitrarily conferrible. To the Prime Minister alone could the power of conferring it be allotted; for to no other functionary could any one propose to allot it. In the hands of a man of ordinary ambition and superior ability, sufficient then might this one instrument be, for the conversion of the here-proposed commonwealth into an arbitrary monarchy: at the least, into a monarchy operating by an all-pervading and all-vitiating system of corruption, waste, and unpunishable depredation, as in England. Into his lap, in return for these *objects of general desire*,—for themselves, or, what would amount to the same thing, for their connexions,—would continually be poured power in various shapes, impunity for various transgressions, and money from various sources, by the Legislature, that is, by the acting majority of the members. Immovable he would remain, how flagrant soever were his inaptitude.

Enactive and Expositive.

ART. 36. Exceptions excepted, repugnant to these same principles is all *ultra-concomitant* remu-

neration. By *ultra-concomitant* remuneration, understand all habitual remuneration for habitual service, after the cessation of the habit of service.

For exceptions, apparent rather than real, see Ch. XI. MINISTERS COLLECTIVELY, § 3. *Army Minister*; Ch. XI. MINISTERS COLLECTIVELY, § 4. *Navy Minister*.

Ratiocinative.

ART. 37. Completely needless, and thence unjustifiable, is all such ultra-remuneration. A baker is not paid for supplying food when he has ceased to do so; a medical practitioner for attending patients; a law practitioner for assisting litigants. Yet never is there any want of bakers, of medical, or of law practitioners: as little, in any official situation, would there be any want of occupants, —if, in the case of service rendered to the whole community, as in the case of service rendered to individuals, the habit of receiving the remuneration were to expire with that of rendering the service. But, bakers have it not in their power thus to load customers; medical practitioners, patients; law practitioners, litigants: while, in a Government which has for its end in view the good of the few, and, for the subject-matter of its sacrifice, the good of the many, placemen have it in their power thus to load subjects. In the Anglo-American United States, waste in this shape has no place.

Expositive and Ratiocinative.

ART. 38. Of *modes of ultra-concomitant remuneration*, examples are as follow: —

1. Superannuation pensions, granted on presumption of relative inaptitude, through infirmity caused by age.

2. Pensions of retreat, granted on the score of casual inaptitude, through infirmity.

3. Pensions of retreat, granted without so much as the pretence of infirmity, on the score of a certain length of past service, balanced all along and requited already by concomitant remuneration.

Remuneration thus located is a premium on inaptitude. Men flock into the situation in contemplation of inaptitude: the infirmity, if it occurs, is exaggerated: if worth while, fostered or even produced: for the plea of it, naturally ready assistants may be looked for in all third persons, who are, or regard themselves as exposed to be, sufferers by it; most strenuous of all, the patron to whom the right of location accrues.

Enactive and Instructional.

ART. 39. Repugnant to these same principles is all *artificially mislocated* remuneration, so located, at the expense of the community, by the hand of Government. It is universally needless; it is essentially unfrugal.

Expositive.

ART. 40. By *artificially mislocated*, understand conferred on an individual, other than him by whom the service was rendered.

Expositive.

ART. 41. *Mislocated*: it is either *mislocated in toto* or *extravasated*.*

Expositive.

ART. 42. It is *mislocated in toto*, where, to a per-

* By anatomists, blood which has flowed out of its proper vessels is said to be *extravasated*: if into other vessels, the *error loci* is spoken of as having place; as in the case of a blood-shot eye.

son by whom the service in question was not, in any part, rendered, reward is given ; to him by whom it was rendered, none.

Expositive.

ART. 43. It is *extravasated*, in so far as, to reward given to the person by whom the service was rendered, is added, on that same account, reward given to some person, by whom, on the occasion in question, no service was rendered.

Ratiocinative and Expositive.

ART. 44. On the contrary, purely beneficial, and by the whole amount of it, is all remuneration in so far as *naturally extravasated*. *Naturally extravasated* it is, in so far as, without expense to Government, in virtue of pre-established connexions, the benefit of it diffuses itself among any, who, by any tie of interest, self-regarding or sympathetic, are in any way connected with the remuneratee. In this case, having place without expense to the community, it is so much pure good, and the more there is of it the better.

Ratiocinative and Instructional.

ART. 45. Of reward *mislocated in toto*, an example has place as often as, for service rendered by a subordinate, the superordinate not having contributed any thing to the performance of it, the superordinate reaps the reward, the subordinate no part of it.

In monarchies, injustice in this shape naturally and habitually pervades the whole of the official establishment: the more abundantly, the more absolute the monarchy is, and thence the more perfectly the light of the public eye is excluded from all official operations.

From this code, by the exclusion of all *arbitrarily conferred* reward, as per Arts. 8, 9, injustice in this shape will be seen effectually excluded. Every man will be judged of according to his works.

Expositive and Ratiocinative.

ART. 46. Of reward *artificially extravasated*, at the expense of the community, by the hand of Government, examples are the following:—

1. Pensions, receivable by the widow of the functionary, on his decease.

2. Pensions, receivable by a child or children of the functionary, on his decease.

3. Pensions, payable to any more distant relative of the functionary, on his decease.

These may be styled *post-obituary*, or *post-obit* pensions.

4. An income in perpetuity, derived from land or otherwise, with power given to the supposed benemeritant and his representatives to hold in hereditary succession, as if so purchased by him. In this case, for the benefit of one individual, generations, indefinite in number, are subjected to depredation.

Enactive, Ratiocinative, and Instructional.

ART. 47. Pre-eminently repugnant would be any such compound, as that which is composed of *factitious* dignity, with fractional masses of supreme power, legislative and judicial together; the whole rendered extravasate, running in the blood of the first remuneratee, from generation to generation, through a boundless line of descendants, from no one of whom could any part have been borne in the supposed public service so remunerated: those

same generations being, moreover, loaded with the obligation of keeping repaired all breaches, made by dissipation, in the originally excessive mass of wealth, originally combined with that same inordinately rich compound;* the whole for the perpetual saturation of appetites essentially unsaturable.

Expositive, Ratiocinative, and Instructional.

ART. 48. For examples, see Art. 30: those appellations, which elsewhere designate little more than the *gaseous* dignity, designating, in one nation—many of them—the above-mentioned substantial compound: for, in the race of waste and corruption, it was ordained of old, that the foremost of all other Governments should be distanced by that, of which it is the distinguishing character to be (in the words of its own so indefatigably trumpeted proclamations), “the envy and admiration of all surrounding nations.”

Enactive.

ART. 49. In respect of any extraordinary public service, analogous to the ordinary service attached to any official situation in this department,—any person whatever, by whom any such extraordinary service has been rendered, may be considered as belonging, on that occasion, to that same office, and, in proportion to the value of the service, be remunerated.

Enactive and Expositive.

ART. 50. Service, which, to a functionary in

* For two successive demonstrations of this truth, see the Author's Defence of Economy against Burke, in Pamphleteer, No. XVII. anno 1817; and Defence of Economy against Rose, in Pamphleteer, No. XX. anno 1817.

the situation in question, would be *ordinary*, and sufficiently requited by the remuneration attached to it, may, if rendered by a person not in that situation, be *extraordinary*, and as such be remunerated.

Expositive.

ART. 51. Examples are as follow:—

1. Service, by defence of any portion of the territory, or of a Government or private vessel, or any individual inhabitant of the territory, against aggression by any pirate or foreign enemy. Sub-department, the Army or Navy.

2. Service, rendered, at the peril of life, by the apprehension of a depredator or other common malefactor, while engaged in the commission of a crime. Sub-department, the Preventive Service.

3. Service, rendered, at the peril of life, by the extinction of an accidental conflagration. Sub-department again, the correspondent section of the Preventive Service Sub-department.

Enactive.

ART. 52. But, in a case of this sort, the Judge will be upon his guard against a fraud, to which, by its nature, it stands exposed: that is to say, service left unperformed by an appropriate functionary, that a confederate non-functionary may perform it, and thus, by the fraudulent display of pretendedly meritorious service, receive appropriate remuneration.

Enactive.

ART. 53. *Judicially*, in a pecuniary shape, may reward, to any amount, be thus conferred.

Enactive.

ART. 54. A minister's pay is [————] a year,

paid quarterly [in advance]. From unwilling hands, receipt of ulterior emolument is *extortion*: from willing ones, corruption. This pay is the standard of reference in the case of the pecuniary competition, as per § 17. *Located how*, Art. 1.

Enactive.

ART. 55. In every Sub-department, the pay of the minister is the same.

Enactive.

ART. 56. Whatsoever is the number of sub-departments allotted to one and the same minister, pay is not given for more than one.

Enactive.

ART. 57. To his stated pay is added indemnification money, for the expense of inspection visits, at the rate of [—] per mile, actually travelled; with [—] for each day or part of a day so employed, for diet and lodging while out. By the care of the Finance Minister, after each visit, immediately on his return, the money is paid to every other minister, on his signing a receipt.

§ 16. *LOCABLE WHO.*

Enactive.

ART. 1. This section has for its object the providing, as soon as may be, and in so far as is necessary,—but no further, at the public expense, in relation to the business of all the several Sub-departments comprised in the Administration Department, a system of arrangements, whereby, in the several official situations, appropriate aptitude in all its branches shall be maximized, and at the same time expense minimized; say, a sys-

TEM OF OFFICIAL LOCATION, or, for shortness,
THE LOCATION SYSTEM.

Instructional.

ART. 2. As to what regards instruction, in so far as this system is well adapted to the instruction of persons destined to become public functionaries, so will it be, according to the nature of the business belonging to the several sub-departments, to the instruction of persons at large, foreigners as well as natives. Any benefit thus derivable from the system, call it the COLLATERAL BENEFIT.

Enactive, Ratiocinative, Instructional.

ART. 3. Of this system of location the leading features are as follows:—

A choice will, at any rate, be to be made, out of a number of candidates or persons proposed. According to this Constitution, for reasons elsewhere given, by a single person, and not by a number, the location must on every occasion be made. That person can be no other than the person, on whom, in case of a bad choice, as demonstrated by relative inaptitude, the responsibility, legal or moral, or both, will fall; in a word, the *Prime Minister*. By no legal restriction is he, therefore, prevented from choosing any person at pleasure: but, by a moral restriction, by the circumscribing eye of the Public Opinion Tribunal, his choice (as per § 15. *Located how*) will naturally be confined within limits comparatively narrow. The person whose degree of appropriate aptitude, in all its several branches, as certified by the votes of a set of appropriately determined Judges, stands highest, will have been made known — made known to him and every body. Thus it is that provision is made for *maximization of aptitude*.

Remains now the *minimization of expense*. Of

those persons who, in the scale of aptitude, stand on or near the same level, it is made known by public competition who those are who, in the situation in question, are willing to serve the public on the lowest terms. Provision for moral aptitude is at the same time made, by a scrutiny, performed at the same time, in the course of the same examination, and with equal publicity.

If, to a person who, in the eyes of the universal public, is seen to stand foremost in the line of appropriate aptitude, and in that of cheapness of service, taken together,—he prefers a person not distinguished in either way, it is at his peril—at the peril of his reputation—that he does so. Nor can an improper choice afford any promise of producing to him any permanent advantage; for, in the case of every office, the power of *dislocation* is confided to a number of hands, each acting separately, with full power, and who, not adding to it (any one of them) the power of *location*, stand (every one of them) altogether divested of all inducement to abuse a power so thankless and unprofitable to the possessors.

For calling into exercise this dislocative power, there will be the motive afforded by the affection of envy in the breasts of disappointed rivals:—a check not capable of being brought into operation in the ordinary case of a purely arbitrary power of patronage.

The choice being thus narrowed, not only expense, but with it, power of corruption, is minimized: the benefit thus bestowed is the produce—not of favour, but of right; though not of legally binding, yet of morally binding right.

Enactive and Ratiocinative.

ART. 4. Under this system, two periods there are, in relation to which, separate provision requires

to be made; the *preparation* period, and the *consummation* period. The consummation period, though last in the order of time, requires to be first described; the other not being otherwise capable of being made intelligible.

Expositive.

ART. 5. By the *consummation period*, understand *that*, during which the courses of proceeding regarded as necessary to the production of appropriate aptitude in the several official situations, in the degree of perfection regarded as desirable and attainable, will be carrying on, each of them during the whole length of time regarded as desirable. Of this period, the *commencement* will coincide with the termination of the preparation period: determinate *end* it will have none.

Expositive.

ART. 6. By the *preparation period*, understand *that* during which those same courses will have been going on, but will not have continued long enough, it is supposed, to have produced, with sufficient certainty, the whole of the desired benefit.

Instructional and Ratiocinative.

ART. 7. If in any degree beneficial, these same courses will, however, almost from the first, have been productive of some degree of appropriate aptitude, which benefit will have continued on the increase, up to the point of time at which the preparation period terminates, and the consummation period commences. This increase, at every distinguishable stage of it, the Legislature will turn to profit, as per Arts. 54, and those which follow it.

Instructional.

ART. 8. For these several courses, the several times of commencement will be appointed by the Legislature.

Instructional and Ratiocinative.

ART. 9. On these principles, throughout the official establishment, proceed the several arrangements, in virtue of which, so soon, and so long, as any person is to be found by whom appropriate proof has been given of his having reaped any distinguishable portion of the benefit in question, no person by whom like proof has not been given will be locable: and, by the whole amount of the thus acquired aptitude, how small soever, this system of location will be preferable to any in which no security at all is given for appropriate official aptitude. Thus it is, that not by doubt, nor even by despair, as to the practicability of carrying the system to the height of perfection here exhibited to view, can any tenable reason be given, for omitting to carry it so far as it shall be found capable of being carried into effect.

Instructional.

ART. 10. For this, as well as other purposes, the Legislature will have caused to be made, and published, an all-comprehensive list of the several situations, belonging to this, as well as the several other departments: name of it, *The Office Calendar*; as to which, see also § 31. *Securities for Appropriate Aptitude.*

Instructional and Expositive.

ART. 11. General heads, under which, for the present purpose, these may be ranged, are—

- I. Situations of talent.
- II. Situations of simple trust.
- III. Situations of trust and talent.

Expositive and Instructional.

ART. 12. By situations of talent, understand those so circumstanced, that, for the apt fulfilment of the duties attached to them, appropriate *knowledge, judgment, and active talent*, in some special shape or shapes, as per Art. 15, over and above appropriate *moral* aptitude, are regarded as necessary.

These situations will be formed into groupés, corresponding to the several groupés of branches of art and science, proficiency in which shall have been regarded as necessary to the apt exercise of the several functions respectively belonging to the several situations.

Expositive.

ART. 13. By situations of simple trust, understand such, for the apt performance of the duties whereof no such proficiency is necessary.

Examples are—

1. Situations, the duties of which are discharged by the receipt, custody, and transmission, of money.

2. Or of messengers from a central part of the territory of the state to every other: as in the case of Post-office situations.

3. Or of stores of any kind: except in so far as, according to the nature of the article, chemical knowledge respecting the causes and preventives of deperition may be necessary.

4. So, situations, in virtue of which the *custoditive* function is exercised with relation to an immovable subject-matter: excepting as above.

Expositive.

ART. 14. By situations of talent and trust, understand such situations of talent, for the apt performance of the duties whereof the disposal of the services of men in considerable numbers, or of things, for public use, to considerable value, is necessary.

Instructional and Expositive.

ART. 15. Of groupes of talents, proficiency in which may be regarded as necessary to the apt exercise of the functions belonging to correspondent groupes of situations, examples are as follow :—

I. Talent-requiring Situations.

1. Army Minister, and his various subordinates, in the several situations of Commander of Engineers, of Artillery-men, and Cavalry; Commissary, for the purchase, preservation, and conveyance of military stores and provisions; Medical Curator; Military Judge.

2. Navy Minister, and his various subordinates.

3. Interior Communication Minister, and his subordinates in various situations belonging to this sub-department.

II. Talents therein more especially requisite.

1. Mechanic and Chemical Art and Science, various branches. Mathematics, in so far as subservient thereto. Fortification. Military Tactics. Medical Art and Science, in most of its branches. Judicature, as applied to Army Service.

2. Mechanic, Chemical, and Medical Art and Science, various branches, as in the case of Army Service. Astronomy, in so far as applied to the determining the place of a navigable vessel, whether at anchor or in her course. Mathematics, in so far as subservient thereto. Naval Architecture. Naval Tactics. Judicature, as applied to Navy Service.

3. Mechanical and Chemical Art and Science, various branches; more particularly Hydrostatics and Hydrodynamics. Mathematics, in so far as subservient thereto.

4. Indigence Relief Minister.

5. Domain Minister.

6. Health Minister, and his various subordinates.

7. Foreign Relation Minister, and his subordinates, in the several situations of Envoy for General Purposes, and Consuls for the special purpose of protection of trade.

8. Finance Minister, and his various subordinates.

4. Political Economy.

5. According to the nature of the several Domains, Agriculture, Geology, Mineralogy, and the several branches of Mechanical and Chemical Art and Science subservient thereto.

6. Medical Art and Science, all its branches. Chemical Art and Science, all its branches. Mechanical Art and Science, various branches. Natural History, most of its branches. Geography, in so far as regards climate and temperature, in countries which the members of the community may have occasion to visit, either for war or trade.

7. Branches of Art and Science, corresponding to the faculties of reading, speaking, and writing, in various languages. Political Economy, in respect of the affairs of trade. History and Geography. National Statistics. International Law.

8.—1. Political Economy, as above.

2. Branches of Art and Science to which belong the several processes of the several manufactures and other branches of profit-seeking industry, the operations of which are liable to become subject-matters of taxation, restriction, prohibition, or compulsory obligation. History, Geography, National Statistics, and International Law, as above.

Enactive.

ART. 16. Except as per § 18. *Located how,*

Arts. 16, 17, antecedently to his admission into any office belonging to this department, the name of the individual must have been entered upon a certain list, called *the Locable List*.

Enactive.

ART. 17. For determining, in regard to each individual, whether he be qualified to be admitted, and accordingly, whether he shall be admitted, into this list,—and if yes, in what rank, a Special Judicatory will be formed, under the name of the *Qualification Judicatory*, or say, *Examination Judicatory*.

Enactive.

ART. 18. Of this Judicatory the composition will be as follows:—

1. *Presiding Judge*, the Justice Minister or his depute.

2. *Other Judges*, the *Prime Minister* and the several *Ministers*, or their respective deputies.

3. *Quasi-jurymen*, the several *instructors*, as per Arts. 42 to 53, under whose instruction the several *locables* have acquired their proficiency in the several groupings of branches of art and science.

As to Quasi-jurymen and their functions, see, in the part belonging to the Judicial Department, Ch. xiv. QUASI-JURY.

Enactive.

ART. 19. Included in the supposition of the sitting of a Judicatory of this sort, are the suppositions following:—

1. Returns made to the *advertisement*, as per Art. 42.

2. To the several places in question, pecuniary supply, afforded by Government; or ascertainment of the needlessness of such supply.

3. Time elapsed, sufficient for the obtainment

of instruction, more or less extensive, in the several branches of art and science in question, or some of them; observation being at the same time made, that, how small soever, the instruction obtained in consequence of this plan will, by the whole amount of it, have been so much more than would have had place otherwise. More will always be better than less, but the least will always be better than none.

Enactive and Instructional.

ART. 20. Mode of procedure in these examinations:—in the main this will be the same as in an ordinary *Immediate Judicatory*.

Examples of points of *agreement* and coincidence are as follow:—

1. On the *pursuer's side*, *applicants* and demandants (the several scholars) demanding admission into the *locable list*, and to that end presenting themselves for examination.

2. Subject-matter of demand, the *judicial service*, which the Judicatory will have rendered to the applicant, if, being placed on the list, he is at the same time placed at the head of it, or in any such inferior place as shall have been thought fit.

3. *Defendants*, in like manner, these same several scholars, each contesting the demand made by every other of the highest station, and the several next stations, one below another, as above.

4. *Evidence* in favour of his own aptitude, spontaneously adduced by each scholar in the character of *demandant*,—any such marks of proficiency, as, according to the nature of the case, the regulation shall have allowed to be exhibited.

5. *Other evidence* in his favour, elicited by *interrogation*, addressed to him by any Judges, or Quasi-jurymen, or fellow-candidates, so disposed.

6. Other evidence, elicited by *counter-interro-*

gation, addressed to him in pursuance of the opposite disposition.

7. Also, whatever *evidence* operates, in a *direct* way, in favour of any one of his several *competitors*, as above.

8. *Publicity*, throughout maximized.

Expositive.

ART. 21. Examples of points of *diversity* on the part of this as compared with an ordinary Judicatory, are as follow :—

1. Substitute or assistant, none, gratuitous or professional, to any such candidate, either as demandant or defendant.

2. Co-demandants or co-defendants, none *compelled* or *compellable* to be.

3. Extraneous witnesses, none compelled or admitted, except in case of necessity, on an examination into moral aptitude, as per Art. 33.

4. Costs, that is to say, compensation to a party on the opposite side for expenses of demand or defence, none exigible.

Enactive.

ART. 22. Of the Qualification Judicatory the *opivative* decree will be thus formed:—*Modes of votation*, two: the *secret mode*; then, before the result of the *secret mode* has been disclosed or ascertained, the *open mode*.

Enactive.

ART. 23. Of the way in which votation in the *secret mode* may be conducted, an example is as follows :—

1. A roll of paper or parchment is provided: length, such as to contain the names of all the several candidates, one under another.

2. In this roll are so many *columns*, placed

abreast of one another, headed each by the names of such *groupes of branches of art and science* as, for this purpose, have been assorted into *groupes*, as per Art. 15.

3. Under each of these heads, in each column, follow the *names* of the several *candidates*, in the alphabetical order of their surnames.

4. To each voter have been delivered *tickets*, in card or paper, equal in number to that of the *candidates*, multiplied by the number of the above *groupes* of branches of art and science.

5. Underneath, or at the back of the name of each candidate, according to the space provided, the *voter pins a ticket*, exhibiting the number, expressive of the relative rank which it is his desire the candidate should occupy.

6. Say, for instance, voters (Judges and Quasi-jurymen together), 25; candidates, 200; *groupes* of branches of art and science, 4: thence, total number of tickets requisite for each voter, 800.

7. Breadth of each ticket, say about one-fourth of an inch; hence, length of each roll, exclusive of the heading, 50 inches — 4 feet 2 inches. Divide the roll into two equal parts, placing them abreast; length of each will be 2 feet 1 inch.

8. The words and figures employed being, all of them, in print, and printed in the same press, the person of the voter cannot thus be made known, as by hand-writing it might be.

9. The two half-sheets of each sheet being folded one over the other, in the manner of a sheet of paper in folio, the *numbers* attached to the names, will *not* in any instance, be *visible*.

Enactive.

ART. 24. Mode of *giving in the votes*. On a day pre-announced, *the Judges*, in presence of

each other, *deliver in* to the Registrar, each of them, his *voting roll*, at the same time : as delivered in, these rolls are *shuffled*, in the manner of a pack of cards, that it may not be known by what person they have respectively been delivered in. They are then *deposited*, one upon another, in a box. The box is *sealed*, by an impression from each Judge's seal ^(a).

Enactive, Expositive, and Instructional.

ART. 25. Mode of scrutiny. For performing the arithmetical operation, the course taken is as follows:—

1. For the assistance of the Registrar, *scrutineers*, two or more, are *elected by the Judges*.

2. In case of equality, the *President* has a casting vote.

3. At the commencement of the scrutiny, and not before, the seals are broken. Thus, by the shortness of the time, all *unduly partial disclosure*, indicating, by means of secret marks, which roll was delivered in by which Judge, is rendered *impracticable*.

4. In relation to each such groupe of subject-matters, the figures expressive of the ranks, assigned to the several candidates by the several voters, being summed up,—he, in regard to whom the sum is least, is thus seen to stand highest in the judgment of the whole Judicatory taken together ^(b).

^a Note by an East India Proprietor. At the India House the forms of secrecy are established; but it is regarded as a signal of hostility to the Directors if, on the delivery, the vote is not made visible to him who presides. Secrecy is thus an imposture. Allowance of liberty of suffrage professed; tyranny and corruption practised.

^b Note by a highly distinguished Officer of Artillery, bred up in the Government Academy at Woolwich, near London.

5. Example. Candidates, as above, say 200: voters, 12: if, by all 12, Candidate A is meant to be ranked highest, 12 will be the number expressive of such his rank: if lowest, 2,400. To facilitate conception, in an appropriate column, in a line with number 12, may be inserted number 1: so also in regard to the several other candidates.

Enactive.

ART. 26. In the *open* mode, the votation will be performed in nearly the same manner; sole difference, the name of the voter will be in his *own* hand, written at the top of his voting-paper.

Enactive.

ART. 27.—It will be performed, after performance in the secret mode: and before the time,

Such is the practice at the Woolwich Academy. Of the proceedings of the examinations, a register is there kept, and monthly returns of the contents made. By these returns, the earliest commissions in the service are determined, and promotions are determined by seniority in service.

For the quieting of the anxieties liable to be produced on such occasions, respecting the correctness of the vote, the nature of the case does not shut the door against ulterior expedients. Suppose a voter hesitating as to the comparative aptitude of two or more candidates; in this case, to give the preference to any one above the other may seem to him an act of injustice.

Modes in which he may exempt himself from self-condemnation on this score:—

1. One is the determining by *lot* which shall be placed.
2. Another, which will naturally be correctly expressive of the desired equality, is, the adding together the numbers, that would be expressive of the ranks, given to the several supposed equally apt candidates, if they were placed one above another, and then dividing the sum by the number of those same candidates: the quotient resulting from this division is the number which, on this plan, he attaches to the name of each. Thus much as to these particular candidates. By this mode his opinion will be correctly expressed in relation to these several candidates; nor, in this way, would the rank of those above or those below them be affected.

when, by the breaking of the seals, the result thereof is begun to be disclosed.

Enactive.

ART. 28. In the same manner, as per Art. 23, will be expressed, in the *secret* mode, the aggregate of the opinions of the *Quasi-jurymen*.

Ratiocinative and Instructional.

ART. 29. In their instance, the *secret* mode alone will have place. On their votes, favour or disfavour of candidates and their friends will operate, it is presumed, with more force than on those of the Judges. In the case of the *Quasi-jurymen*, they being the several Instructors, the interest which they respectively have in the aptitude of the persons located in the several official situations, is not so immediate and clear as in the case of the *Judges*. Each *Quasi-juryman* being an *Instructor*, it is for the interest of his reputation that his pupils, qualified or not qualified, be in the greatest number possible, placed in the highest ranks possible (°).

Enactive.

ART. 30. Of the votation, in both modes, in a Table styled the *Ranking-table*, the results will be published at the same time.

° Note by a person of distinction, bred in the University of Glasgow. When prizes were given, votes, expressive of the degrees of proficiency, were delivered by the candidates themselves; each thus acting as Judge in relation to every other: justice was universally acknowledged to be the general, not to say the constant, result.

Addition by the Author. At Hazelwood School, near Birmingham, at which two Greek youths are educating by the Author of this Code, punishment is never administered, unless the accused has been found guilty by his fellow-scholars. Note, that in no shape is corporal punishment there practised.

In the present case, the multitude of the persons in question would with difficulty, if at all, admit of so extended a Judicatory.

Enactive.

ART. 30. The effect of priority being, as per § 17, not peremptory, in such sort as to exclude the faculty of choice on the part of the locating superordinate, the result of both modes will lie, and will be seen to lie, before him, for his guidance.

Enactive or Instructional.

ART. 31. When time has brought into existence a sufficient body of experience, the Legislature will choose between the three modes: to wit, the secret mode alone; the open mode alone; and the two compounded, as above. In regard to the whole number of official situations, or this or that portion thereof, it will, if it see reason, ordain that they shall all three be employed: to wit, one during the first; another during the second; and the third during the third, of three successive years.

Enactive.

ART. 32. Of the comparative aptitude of the several instructors, presumptive evidence, more or less probative, will thus be exhibited. The rank of each several candidate being thus ascertained,—on a line with each, in an appropriate column, will be inserted the name or names of the *instructor* or *instructors*, under whose instruction he had studied; together with the *time* or times at which, and the length or *lengths of time during which*, such his study had been continued.

Enactive and Instructional.

ART. 33. For appropriate *moral* aptitude, the Legislature will, if it sees reason, appoint a limited list of topics, in relation to which, to the exclusion of all other topics, the several *Judges* and *Quasi-*

jurymen shall or may interrogate the several competitors: and the several competitors, with the leave of the judges, one another.

Into any alleged irregularities of the sexual appetite, all scrutiny, as being irrelevant, and pregnant with useless and mischievous annoyance to third persons, will be interdicted.

Enactive.

ART. 34. Till such list has been framed and published, the liberty of interrogation will be unlimited. Power in this case to the majority of the judges, spontaneously, or at the instance of the candidate who is the subject of the interrogation, to inhibit answer, or declare the interrogatee at liberty to answer or not, as he thinks best. As to this, see Ch. xii. JUDICIARY COLLECTIVELY, § 26. *Locable who.*

For falsity committed in this Judicatory, the interrogatee is responsible, as if it were in any other. So the interrogator, for any falsity asserted on the occasion of, or implied in, his interrogation.

Enactive.

ART. 35. Of the result of this scrutiny into moral aptitude, entry will be made in an appropriate register book, styled the *Candidate's Character Book*.

Enactive and Ratiocinative.

ART. 36. Appropriate moral aptitude being, in this case, mostly negative, — and where no imputation attaches, as will mostly be the case, not susceptible of degrees, — appropriate aptitude in this shape will not be subject to votation. Of this scrutiny, as of the other, the result will lie in the view of each locator, and will assist him in the formation of his choice.

Enactive.

ART. 37. From the result of the votation process, as above, will be framed, printed, and published by the *Registrar*, under the direction of the President, the aggregate *opinative decree*, by which the ranks of the several *candidates*, say the several *probationary locables*, will be determined.

Enactive.

ART. 38. Consequent upon, and determined by, the *opinative decree*, will be the *imperative decree*, by which order will be given for their insertion in the *locable list*, and for the printing and publication of it.

Enactive.

ART. 39. To the name of no *probationary locable* will insertion be refused, on the ground of *intellectual* inaptitude, unless by an express decree of the majority of the officiating Judges. In case of imputed inaptitude, the degree thereof will be exhibited by the rank occupied by the individual's name in the list of *probationers*, as per Art. 25.

Enactive.

ART. 40. So neither, on the ground of *moral* inaptitude. But in the printed list, to the name of each probationer, to whose conduct, on the score of moral inaptitude, an objection has been made, a mark will be attached; and of what has passed, on the occasion of every such scrutiny, a *record*, under the care of the Registrar, will be made and *published*.

Enactive and Ratiocinative.

ART. 41. For obtainment of *instructors* in the

several branches as above,—for maximizing the aptitude of those employed, by maximizing the number of those competing for the employment,—and, moreover, for preascertainment of the expense to Government, *advertisement* will, by direction of the Prime Minister, be made of the several places at which it is proposed that the instruction shall be administered; together with questions, to which every person desirous of administering it may give answers. Name of this instrument—*The Prime Minister's Advertisement for Instructors*; or, for shortness, *The Advertisement for Instructors*.

Enactive.

ART. 42. Examples of these questions are the following:

1. At the time of answering, have you under your instruction, any and what pupils, and of what ages respectively, in any and what branch or branches of instruction contained in this advertisement; and during what length of time have you so had them respectively, mentioning in each instance the year, month, and day of commencement?

2. To any and which of them do you supply lodging and diet, or either and which, and on what terms?

3. As to what other branches, if any, of art and science, in the groups stated in the advertisement, as per Art. 15, or in any and what other groups, or separately, do you regard yourself able, being also willing, to administer instruction?

4. What remuneration do you require for each pupil, with variations, if any, according to age, or any and what other circumstance?

5. Shall you be able and willing, and when, for any and what number, to supply lodging and diet, or either and which, and on what terms?

Enactive.

ART. 43. Of an advertisement to this effect, the object will be, to ascertain, in the first place, in what branches of instruction, and in regard to each, for what number of pupils apt instruction, may be expected, at the charge of the *individuals* more immediately benefited, and thence, what part of the expense will be required to be borne or advanced by *Government*.

Enactive and Ratiocinative.

ART. 44. As to the Government's share of the expense, the primary distinction will be between that part which must be advanced in the shape of *capital*, and that part for which an annual or other periodically received allowance, in the manner of *interest on capital*, may suffice: periodical allowance being preferable as far as it will go: preferable, inasmuch as, if ineffective or become needless, the expense may at any time be made to cease.

Enactive.

ART. 45. Of the *purposes* for which *capital* may be requisite, the principal, are *house-room, ground-room*, and appropriate *apparatus*: relation being, in this case, had to the several branches of art and science.

For house-room and ground-room, it will be the care of Government that no advance shall be made in the shape of *capital*, any further than room, suitable and adequate to the purpose, cannot be obtained for hire.

Enactive, Ratiocinative, and Instructional.

ART. 46. For the maximization, not only of *fru-*

gality and extent of provision as above, but, moreover, of appropriate *aptitude* on the part of the *Instructors*, — it will be the care of the Legislature, to minimize, in the instance of each Instructor, all such supply in a pecuniary and quasi-pecuniary shape as will be independent of the number of his pupils, and thereby of the strenuousness and constancy of his exertions.

Instructional and Ratiocinative.

ART. 47. In this view, it will be the care of the Legislature, that whatsoever remuneration is needed for engaging apt Instructors shall, in as large a proportion as may be, be defrayed, not by Government, but by the pupils, and their relatives: considering that, in so far as salary is provided at a fixed rate, independent of the number of the pupils, motives for adequate exertion on the part of the alleged Instructors are altogether wanting; while the love of ease is an inducement, by the force of which, the absence of exertion will be secured: considering, moreover, that even if remuneration were made to rise in proportion to the number of the pupils, adequate motives for adequate exertion might still be wanting; the number being kept up for appearance sake, and the exertion no greater than what would be regarded as necessary to save the Instructor from disgrace; and that thus, in both cases, every allowance, thus made, operates as a premium on negligence, and as a prohibition on appropriate attention and exertion.

Instructional and Ratiocinative.

ART. 48. On the other hand, cases may have place, in which, on pain of leaving the service unprovided with the necessary instruction on

matters of indispensable necessity, it may be necessary to provide extra remuneration, in a quantity such as to free the Instructor from any such dependance, as above, on the number of his pupils. But against this case provision, in a great degree effectual, will have been made:—made, by the inevitable constancy of attendance, and performance of the appropriate functions, at the seat of duty, on principles and by means, as per Ch. vi. LEGISLATIVE, § 20. *Attendance and Remuneration, how connected*; and § 23. *Self-suppletive Function*: so far as consists in the reading of lectures, performance being thus secured, although the motives for exertion may not be in quite so high a degree efficient as they might be rendered by emolument, rising in proportion to the number of the pupils, still may they be sufficiently effective, to make ample return for the expense: delivery of the instruction, in some state or other, being by the supposition inevitable, regard for his own character will prevent a man from exhibiting the instruction in any such state as should expose his character to disgrace; and, in situations such as those in question, this will, on the part of most men, suffice to call into action nearly all such appropriate aptitude as they are conscious of being in possession of.

Instructional and Ratiocinative.

ART. 49. Of cases in which, in addition to bare subsistence, remuneration, rising in regular proportion with, and thence dependent on, the number of the pupils, may, as above, fail of being sufficient, examples are as follows:—

1. On the one hand, the branch of instruction; on the other hand, the state of the country such—that an extra mass of emolument to a certain

degree ample, may be necessary to attract instructors from *foreign countries*.

2. Or, in the country in question, from *rival pursuits*.

3. The branch of instruction such that, in the country in question, at the time in question, notwithstanding the multitude of those by whom it is, on account of the public, desirable that it should be possessed, — proficiency in it may not afford to pupils, — in number sufficient to make up such remuneration, as above, to the instructor, — inducement sufficient in their eyes to pay for the time, labour, and expense, necessary to acquirement.

Instructional.

ART. 50. In a case in which, under the persuasion of necessity, as above, any such extra rate of remuneration has at the outset been allotted, — it will be for the care of the Legislature so to order matters, that along with the necessity the overplus shall cease. Preserving, therefore, for the sake of good faith, to the first professor his agreed-for remuneration — such reduction will, accordingly, upon his decease, resignation, or dislocation, be made, as the consideration of the probable desirableness of the situation in the eyes of apt instructors, — consideration being moreover had of the habitual probable number of pupils, — appears to admit of.

Instructional and Ratiocinative.

ART. 51. If, in this or that *place*, it should be found necessary to employ *public money*, in providing *pay* for the engaging of apt Instructors, care will at the same time be taken, *not* to make it *larger* than the pay customarily regarded as neces-

sary for the subsistence of the lowest-paid class of labourers: for, if at the *place* in question, at the expense of parents and relatives, pupils can not be obtained, in number sufficient to afford an adequate inducement to an apt instructor, it will follow, that that same place is not so fit as some other that might be found. For the mode, in which, on the part of instructors, comparative aptitude will be exhibited by the examinations, see Art. 32.

Instructional and Ratiocinative.

ART. 52. In this same view, the propriety will be seen, of abstaining altogether from making any allowance for *lodging* or *diet* of pupils, considering, that in no part of the territory, in which any population has place, can there be any want of parents or other relatives, by whom persons, apt in respect of age to become pupils, are already maintained at their own expense: and that, in so far as allowance were made for any such purposes, such allowance would operate as a premium, or bounty, on the production of population in excess.

Instructional and Ratiocinative.

ART. 53. As to *clothing*, if any Government allowance is made, it will be in the view of preventing the comparatively opulent from being excluded from the benefit of the instruction, by disgust produced from the spectacle of deficiency or uncleanness, on the part of the comparatively indigent.

Enactive, Instructional, or Expositive.

ART. 54. When, in consequence of the advertisement, as per Art. 42, answers, at the end of a

sufficient interval of time, have been received, — the Legislature will, by a succeeding advertisement, fix a day, distant not less than [one year] from the day on which such last-mentioned advertisement is issued; on which succeeding day, at the appointed place or places, the *first examination* or examinations will be to be made. These days may respectively be denominated, the *examination-appointing* day or days, and the *examination* day or days; the advertisement, the *examination-appointing* advertisement.

Enactive or Instructional.

ART. 55. On the occasion of such examination-appointing advertisement, if not before, the Legislature will have determined, and will then declare its determination, as to whether the several branches of art and science, comprised in the several groups, shall be included all in one examination, or shall, in any and what manner, be distributed among divers examinations: those examinations to be performed by the same or divers *Qualification Judicatories*, at the same or divers times.

Enactive.

ART. 56. Length of the *consummation period*, say [seven] years. Day of commencement, either the day of the first examination, or some anterior day — say the examination-appointing day, as above. In each place if there be places more than one, the number of examinations in the course of that period will be, if annual, 7; if semi-annual, 14; if quarterly, 28. By the last examination will have been produced a complete set of functionaries, by whom the full benefit of the system will (it is presumed) have been reaped.

Instructional and Ratiocinative.

ART. 57. Coincident with the *earliest consummation period* that has place, will be the *preparation period*. So many years, half-years, or quarters, so many *stages*, into which it may be considered as divided. By whatever considerations the Legislature will have been determined to cause the course of instruction to be administered in its entire length, by the same will it have been determined to cause to be administered whatsoever smaller portion the interval of time will, at each stage, have admitted. For,

1. In relation to appropriate aptitude in official situations, any quantity of time, employed in appropriate instruction for the obtainment of it, will be better than none.

2. Of any given degree of such aptitude, any such *direct* evidence will be better than none.

3. On grounds unknown to all men, *no man's* bare opinion, in affirmance of another man's aptitude, can be so well grounded as that of *all men* will be, after a public examination, though there were no more than *one*, followed as it will be by collective judicial opinion, having such examination for its ground, and expressed by secret, and thence by free votation, as above.

Enactive.

ART. 58. Accordingly, when one year's instruction has been received, no person, those excepted who are already in office, will be placed on the *locable list*, unless he has been receiving the benefit of that same instruction throughout that one year: when two years, no person by whom it has not been received during those two years, those persons excepted who are then already in office, and those by whom the instruction had

been received during the second year : and so on during the whole of the period — the quantum of appropriate instruction receiving every year an increase, until what is regarded as a sufficiency has been secured to all functionaries, in all lines, and the door perpetually shut against all those whose inaptitude stands self-confessed, and thus conclusively proved, by their shrinking from the test.

Instructional.

ART. 59. In relation to appropriate *moral* aptitude, the Legislature will consider—whether the course of examination relative thereto shall commence at the same *time* with the examination relative to the other branches of appropriate aptitude, as above,—or not till at some and what later point of time; as also whether the acts of the examinee, which, on the examination, may be permitted to be brought to light, may commence at *any* point of time, or whether a time shall be assigned, to the end that no such act, anterior to that time, shall be endeavoured to be brought to light.

§ 17. *LOCATED HOW.*

Enactive and Expositive.

ART. 1. *Pecuniary Competition.* So soon as, by the records of the Qualification Judiciary, candidates, apt for official situations, and thence placed on the *locable list*, have been made known,—the Prime Minister will, by advertisement, give notice, of the day on or before which, but not after which, the offers of persons desirous of filling the several situations are to be delivered in at his office. These offers will be so many biddings in the *office competition process*. Name of this ad-

vertisement, *the pecuniary — competition — inviting*, or *official pecuniary — competition, advertisement*. The *pay* annexed to each office having been predetermined by an ordinance of the Legislature, each *bidding* will be either *reductional*, or *emptional*, or *compound*.

Expositive.

ART. 2. By a *reductional bidding* understand— an offer, to accept, along with the situation, a quantum of pay, less than the appointed quantum, by a sum therein named.

Expositive.

ART. 3. By an *emptional bidding* understand— an offer to give, for the situation, with the appointed quantum of pay, a sum therein named.

Expositive.

ART. 4. By a *compound bidding* understand— a bidding, in which the reductional and the emptional offers are combined.

Enactive.

ART. 5. On the occasion of this same pecuniary competition, — from no person other than those on whose claims a judgment has been passed in the Qualification Judicatory will any bidding be available. No person, by whom a trial in the Qualification Judicatory has not been undergone, is in any one of these situations locable.

Enactive or Instructional.

ART. 6. *Pecuniary Security*. In relation to the several *simple trust* and *talent and trust* situations, as per § 16. Arts. 10, 11, 12, 13, the Legislature will have determined—in what instances, and in what shapes, *pecuniary security*

shall be required at the hands of Locatees: and, at the biddings, made on the occasion of the pecuniary competition, each bidder, making reference to such determination, will add in detail the pecuniary security he is able and willing to give.

Expositive.

ART. 7. Of every Minister, the situation is one of *talent* as well as *trust*.

Enactive.

ART. 8. No person will be admitted, either as Principal or as Deputy, to the exercise of the functions belonging to any situation standing upon the list of official situations in this department, — or to any pay as Principal, until an appropriate *instrument of location*, signed by Locator and Locatee, has been lodged in the records of the office.

Enactive.

ART. 9. In this instrument, matter will be to be entered under the several heads following: to wit,

1. *Name*, at full length, of the person located.
2. *His age* (mentioning the year, month, and day of the month, when born, so far as known) on the day of the signature of the instrument.
3. *Time*, that is to say year, month, and day of the month, on which he was *admitted* into the *Locable List*.
4. *Rank*, assigned to him on that occasion, as evidenced by the *Ranking-table*, as per § 16. *Locable who*, Art. 30.
5. *Bidding*, if any, made by him for the situation, with the particulars, as above, per Arts. 1, 2, 3, 4, annexed.

6. *Biddings*, if any, respectively made by whatsoever other persons were, for that same situation, candidates. Of these biddings, designation will be made, either by transcript, or abridgment, or simple reference to a separate instrument, according as they are more or less numerous.

7. If preferred to any whose *ranks* were respectively superior to his, mention of them, with brief indication of the *grounds of preference*.

8. So, if there were any whose *biddings* were superior.

9. Service, in quality of Depute in that same situation, may be a sufficient ground:—the actual length of such service being specified, together with the year, month, and day of the month, on which it commenced.

Enactive.

ART. 10. Of each such *location instrument*, *exemplars* will be disposed of as follows:—

1. Delivered into, and kept in the office into which the Locatee is located, one.

2. Delivered into, and kept in the office of the Locator, one.

3. Delivered to the Locator for his own use, one.

4. Of the several functionaries, if any, who, in their several grades, are *superordinate* to the Locator, to each, one.

Instructional.

ART. 11. The Legislature will consider—whether, to the checks thus applied, any other and what checks on mislocation shall be added:—as for example, a statement of the several con-

nexions of the several candidates in the way of relationship, whether by consanguinity or alliance; fixing in that case the degrees. As to this matter, see Ch. xii. JUDICIARY COLLECTIVELY, § 16. *Partiality obviated.*

Enactive.

ART. 12. When a situation subordinate to that of Minister is to be filled, the Minister will advertise for candidates, and receive biddings as per Arts. 1, 2, 3, 4, 5, 6; the faculty of bidding with effect being confined to *tried* persons, as per Art. 5.

Enactive and Instructional.

ART. 13. In the Location Instrument, the matter will be entered under heads, as per Art. 9, together with any such others as the Legislature shall from time to time have added.

Enactive and Expositive.

ART. 14. Exceptions excepted, as per § 16. *Locable who*, Art. 55, no person who has not undergone trial in the Qualification Judiciary (as per § 16) will (as above Arts. 5, 12.) be locable. But, in the case of a situation of *simple trust*, notwithstanding any inferiority in the scale of *talent*, the preference may, without reproach be given to a candidate, — in consideration of the comparative advantageousness of his *bidding*, and the sufficiency of the pecuniary security, *self-seated* and *extra-seated*, proffered by him.

By *self-seated*, understand property possessed by himself; by *extra-seated*, property possessed by any such other persons, as have consented to stand bound for the eventual supply of any loss to the public, judicially proved to have had misconduct on his part for its cause.

Instructional.

ART. 15. As to pecuniary and quasi-pecuniary security, the Legislature will determine—in regard to what, if any, situations, the property, required for this purpose shall be required to be in such sort bound, as to be rendered inalienable in the hands of the possessor.

Enactive.

ART. 16. Exceptions excepted, in no situation of trust, or talent and trust, will any person be locable, until his age (whatsoever have been the number of his examination years) is that, at which a man is intrusted by law with the entire management of his own concerns: say [21] years.

Enactive and Ratiocinative.

ART. 17. Exceptions for consideration are—

1. Army service; the military branch: in this branch, an officer is locable in the lowest grade at the age of [—] years.

For, in this grade, the functionary, though he has the command of some, is himself constantly under the command of others.

Enactive and Ratiocinative.

ART. 18.—2. Navy service; the military branch: in this branch, an officer is locable in the lowest grade at the age of [—] years. Reason, as per Art. 17.

Instructional.

Art. 19. On a comparative survey of the several Sub-departments, and the several situations in each sub-department, the Legislature will consider, in what instances demand for difference in grades

has place, and, in so far as it is established, how far succession to a vacancy shall be influenced by it : that is to say, in what instances, in regard to any grade above the lowest, biddings under the pecuniary competition system shall have place.

Instructional and Ratiocinative.

ART. 20. On this occasion, the considerations following will be borne in mind :—

1. Of two persons, the one, suppose, has been habitually subject to the direction of the other. In this case, if, by a fresh arrangement, it happens to the superordinate to find himself subjected to the direction of his quondam subordinate,—a natural consequence is—on the part of the thus relatively depressed superordinate, a pain of *humiliation*—say, in this case, *a pain of degradation*—a pain produced by the comparison made of his antecedently elevated, with his subsequently depressed state.

2. Where no such subjection has had place, no such pain is produced in a man's mind by the mere view of the rise of a person, who, not having been subject to his direction, comes to be located in a situation more eligible than his : in this case, therefore, that same reason, in favour of *settled succession*, has no place.

Enactive, Expositive, and Instructional.

ART. 21. As to every situation subordinate to that of Minister, there will be two locators—the *initiative* and the *confirmative*. Exceptions excepted, as to every office in his sub-department, the initiative locator is the Minister ; confirmative, the Prime Minister. Exceptions, if any, remain to be excepted by the Legislature.

Enactive, Expositive, and Ratiocinative.

ART. 22. If, in any sub-department, any *initiative* locator, subordinate to the Minister, is established, — it will be in consideration of distance, lest, during the interval between the day on which the vacancy at the place in question takes place, and the day on which information of the *confirmative* location reaches that same place, the service belonging to the situation, so vacated, be left unperformed. In this case there may be *two initiative locators*; *temporarily initiative locator*, the next superordinate of the functionary by whose dislocation the vacancy is created; *definitively initiative locator*, the Minister.

Expositive and Instructional.

ART. 23. Examples of sub-departments, in which, in respect of *distance*, a demand for *initiative location*, in hands other than those of the Minister, and thence for *temporarily initiative location*, is more particularly apt to have place, are the following: to wit—

1. The Army Minister.
2. The Navy Minister.
3. The Foreign Relation Minister.

Enactive and Ratiocinative.

ART. 24. In the Army sub-department, in so far as regards command over functionaries in the military branch, vacancies, in respect of *function*, are, in effect, for the occasion, without special appointment, filled of course; to wit, by the universally and necessarily established relation between rank and rank; as to which, see Ch. x. DEFENSIVE FORCE.

Instructional.

ART. 25. Not so, in so far as regards situations

in the non-military, styled the *commissariat branch*; those, to wit, by whom, with relation to the matter of warfare, and the matter of subsistence, are exercised the several functions, *procurative, custoditive, applicative, reparative*, and *eliminative*: as to which functions, see Ch. ix. MINISTERS COLLECTIVELY, § 3.

Instructional.

ART. 26. Nor in so far as regards the command of fortified places.

Instructional.

ART. 27. Nor in the Navy department, in which, in the establishments of the great maritime powers, in so far as regards the matter of subsistence, the above functions, as per Art. 23, are, in each ship, commonly exercised by a single functionary, styled the *Purser*.

Enactive.

ART. 28. In the Foreign Relation sub-department, at each missionary station, as on the incapacity or absence, so on the death, of the principal functionary,—his functions will be exercised by a depute of his, as per Ch. viii. PRIME MINISTER, § 4. *Self-suppletive Function*. Failing such depute, if an established subordinate of the principal is on the spot, under a denomination, for example, such as that of *Secretary of Legation*, such subordinate will, for the time, except in case of special provision to the contrary, succeed as if located by a temporarily initiative locator, as above, Art. 22.

Enactive.

ART. 29. On a vacancy in the situation of *Vice-Consul* by the *Consul* will the function of *temporarily initiative locator* be exercised.

Instructional.

ART. 30. In what stations, and on what footings, the power of deputation shall be exercised by a Vice-Consul, the Legislature, having regard to distance, and to the state of society in the foreign nation, in each case, will determine.

Enactive.

ART. 31. Of the locative function, the mode of exercise is as follows:—By the Minister, he being the initiative locator, an appropriate *location instrument* is prepared and conveyed to the office of the Prime Minister. After the lapse of [—] days exclusive, reckoned from the day of its being received in that office, the location will have become confirmed: * unless, under the signature of the Prime Minister, an instrument, in correspondent form, locating some other locable, or an order, suspending the effect of such initiative location, has, in the mean time, in the office of that same Minister, been received.

Enactive and Ratiocinative.

ART. 32. In case of any such substitution, reasons for the rejection, and the consequent location, will be expected: if none are given, the conclusion of the Public Opinion Tribunal, and of the Legislature, will be—that none can be found.

* On this occasion, the *rationale* will have to speak of this sort of expeditive arrangement, as generally applicable for remedy to the practice of indeterminate and indefinite *suspension*, through negligence or indecision:—a practice pregnant with distress to all individuals interested, as well as indefinite public mischief. Apply it also to appeals. See Ch. xxiii. APPELLATE JUDICATORS. Refer to Morning Chronicle, 27th May, 1824, mentioning Secretary Canning's indefinite suspension of an ordinance of the East India Direction, in the debate of the 26th.

Enactive.

ART. 33. *Deputes permanent*.—Without special reason, no person, who has not been upon the *general locable list*, as per Art. 18, is capable of being located as *depute permanent*, in any office belonging to this department.

Enactive.

ART. 34. Special reason is—where, in the *location instrument* by which the depute is constituted such, the names of all persons on that list being by recital or reference designated, — the locator states, on the part of each, either *refusal* or *inaptitude* actual or virtual, absolute or comparative: adding, in what particular shape or shapes such inaptitude has place.

Enactive.

ART. 35. In the *location instrument*, matter will in this case be inserted under the four first of the heads enumerated as per Art. 9, in the case of a person located in the situation of *principal* in the office.

Enactive.

ART. 36. Of the deputation instrument, *exemplars* will in this case be disposed of, in number and destination the same as in the case of the *principal*, as per Art. 10.

CONCLUDING INSTRUCTION TO THE PUBLIC OPINION TRIBUNAL.

Instructional.

ART. 1. To the Public Opinion Tribunal it will belong, with all its energies, to urge the commencement, and urge on the progress of the

system of appropriate instruction here delineated. By the most powerful particular and sinister interests,—the several Ministers, with their several dependents and other connexions, whoever they are, will at all times be urged to do their utmost for the retardation, and, if possible, the frustration of it. Of this repugnance the cause is no less manifest than the existence is unpreventable. Till the tests of aptitude thus furnished are in operation, the locating functionaries will, of necessity, remain in possession of a power of choice, altogether arbitrary: apt, or in ever so high a degree unapt, their several dependents and connexions will remain located and locable, in all situations under them respectively, from the least to the most highly desirable. On the other hand, no sooner are these tests of aptitude in operation, than, by the influx of tried minds, whose aptitude has been made manifest to all eyes, the sceptre of arbitrary power will be swept out of their hands, and the feelings of a dethroned despot will be theirs.

Instructional.

ART. 2. The whole artillery of *fallacies* will be drawn out and employed; in particular, the better the plan is in *theory*, the more incapable it will be pronounced of being carried into effect *in practice*: and to the thus predicted impracticability, all imaginable exertions will be employed to give fulfilment.

Instructional.

ART. 3. If, and in proportion as, in the dominion of the State, apt instructors, whose native language is the national language, are wanting,—either the functionaries must remain uninstructed and unapt,

or, under the disadvantage of having to learn, at a more or less advanced period of life, a foreign tongue, foreigners must be called in and employed. But, unless in case of temporary calamity, men will not for nothing quit their old accustomed habits and connexions, for those of a strange land: and thus, under the double mask of patriotism and frugality, sinister interest will seek, and with but too much probability of success, a cover for mischievous and anti-patriotic exertions.

Instructional.

ART. 4. Unhappily, no sooner has the system come into operation, than a dilemma, in no small degree unwelcome to every feeling eye, will have taken place: either, to an incalculable amount, sacrifice of the public good—of the good of every branch of the service—must have place; or, notwithstanding any, the most perfect, degree of moral aptitude, a more or less considerable number of functionaries will have to quit their several situations.

Instructional.

ART. 5. For minimizing the evil from these two opposite sources, one means, however, there is, the application of which will be completely in the power of those functionaries whose situation exposes them to it. According to their several situations, let those in possession participate in the instruction administered to their successors in expectancy: at this price they will add those titles, whatever they be, in which others are sharers with them, to that experience which is peculiar to themselves.

Should pride be troublesome, let this fact quiet it. Anno 1824, in London, John Mac Culloch, having acquired the reputation of proficiency in the

art and science of political economy, instituted a course of lectures. Among his audience were Frederick John Robinson and William Huskisson, both Members of Parliament, both Cabinet Ministers: Robinson, under the title of Chancellor of the Exchequer, principal Minister of Finance, acting as such in the House of Commons; Huskisson, under the title of President of the Board of Trade, Minister of the Sub-department of Trade.

Supplement to § 16. *LOCABLE WHO.*

USE of *LOT* as an INSTRUMENT of SELECTION.

Instructional.

ART. 60 or 1. Purposes to which, on the occasion of a probationary examination, *chance*, substituted to *choice*, is capable of being employed with advantage as an instrument of selection, for the selection of a *part* of the whole number of desirable subject matters of examination, in a case where want of time renders the employment of the *whole* impracticable.

1. Maximization of the *inducement* afforded to *exertion* on the part of learners, by impossibilizing the knowledge, as to what part of the field of exercise the trial will be applied to, and thence making *aptitude* of equal necessity in relation to every part: thus, on the part of each, in so far as depends on exertion, maximizing the probable degree of *absolute* appropriate aptitude.

2. In respect of the degrees of *comparative* aptitude, ascribed to the several competing probationers by the aggregate judgment of the examina-

tion judicatory,—minimizing the probability of injustice, by impossibilizing the faculty of giving exercise to undue *disfavour*, by the selection of subject matters of examination;—or *favour*, by the like selection, foreknowledge of it given, or not given, to the favoured candidate.

Instructional.

ART. 61 or 2. *Responses and exhibitions*:—to one or other of these denominations, will, it is believed, be found referable every token of appropriate aptitude, of which, on the part of a probationer, as such, in any branch of art and science the nature of things admits the manifestation. Correspondent *function*, (as per § 10. *Information elicitive function*,) the exercise of which, on the part of examiners, is necessary,—in the case of responses the *extractive*; in the case of exhibitions, the *simply receptive*.

Instructional.

ART. 62 or 3. Points, determined antecedently to the manifestation either of responses or exhibitions, will require to be the following:—

1. *Length of time*, intended and expected to be occupied in the whole process of the examination.

2. *Probationers*, entitled and expected to be examined—their whole number.

3. *Functionaries* entitled and expected to take part in the examination, their several classes, and the number of individuals in each. As to this, see Art. 17, 18.

4. *Classes of Examiners*: as per Art. 18. three.

5. *Number of individual examinees* in each class.

6. *Aggregate number* of the individuals in the aggregate of the classes.

7. *Time*, intended to be occupied in the elicitation of the appropriate information in the extractive mode, to wit, by *interrogations* followed by correspondent *responses*.

8. *Time*, proposed to be occupied in elicitation in the *simply receptive* mode: to wit, by *inspection* applied to *exhibition*.

For the several modes of elicitation, as applied to appropriate *information*, or say *evidence* in general, see above, § 10. *Information elicitative function*.

Instructional and Enactive.

ART. 63 or 4. Mode of procedure for the elicitation of *responses*.

For each branch of art and science provide a *book*, in which the whole matter of it, or such portion as shall have been deemed necessary and sufficient, has been cast into the form of *questions*, with correspondent *answers*; say, for distinction, *responses*. Name common to each such book, the *Question Book*; the names of each such question book, that same generic name, with the addition of the name of the branch of art and science in question prefixed to it. Examples, *Chemistry Question Book*: *Mechanics' Question Book*.

Instructional.

ART. 64 or 5. For the purpose of obtaining the instructions afforded by it,—the assumption is—that, by each probationer, the whole matter of it may have been stowed in his memory: but that for the purpose of their making proof of such

portion of instruction as they have respectively obtained from it, only a part of the instruction so obtained can be brought to view:—brought to view, to wit, by responses, delivered in compliance with the corresponding questions propounded: only a part by the aggregate of them; consequently, not more than a much smaller part by any one. Such, accordingly, is the course determined on, and universally known to be so.

Instructional and Ratiocinative.

ART. 65 or 6. This being assumed, one consequence is,—what person soever it be, by whom, for the purpose of his undergoing the scrutiny in question, it is deemed necessary that he should enable himself to make apt response to any one of these same questions, by that same person will it be deemed necessary for him to enable himself to make response to all alike; whereas, supposing him to regard any one part of the whole number as being more likely to be propounded to him than others, in any number,—he would be tempted to content himself with qualifying himself for making answer to this most probably propounded part, leaving the remainder in a state of absolute or comparative neglect.

Instructional and Ratiocinative.

ART. 66 or 7. In the following mode, *lot* may be seen to be made effectually instrumental to the exclusion of *partiality*, as well unfavourable as favourable, on the part of *examiners*.

1. So far as it depended upon the choice of the examiner to determine the questions, or other tests of aptitude, that shall be propounded to a

probationer,—the consequence would be—a power of favouring or disfavours, without any regard to appropriate aptitude, the pretensions of probationers, in any number, at his pleasure. To favour any probationer, he might propound such questions alone, how little probative soever of aggregate aptitude, as the probationer was best prepared to answer; or, to disfavour another probationer, he might propound such questions alone, as, according to what he had learnt, the probationer would be unqualified, or, at any rate, least qualified to respond to.

2. If, of the whole number of the questions that ought to have had place in the lottery, any part were omitted,—the lottery would, in proportion to the magnitude of the omitted part, fail to be as probative a test of aptitude as it would be otherwise: and such would be the case, although it had been by *chance*, not *choice*, that the omission had been produced.

If, on the other hand, there were any person by whose choice any such omission could take place, it would, in this indirect way, be in the power of that person to give effect to undue partiality, favourable or disfavours, as above.

Instructional and Enactive.

ART. 67 or 8. Mode of proceeding, by which choice is excluded, and to all eyes shewn to be so. Example:—

1. Manner of arranging the questions, for the purpose of its being, in each instance, determined by *lot* which of them shall be propounded.

In the *Question Book*, the questions being designated, each of them, by a number prefixed to it, and the numbers following one another in nume-

rical order,—a set of square tickets, (of card, suppose) all of equal size, marked with the correspondent numbers, are provided. These tickets, in the appointed manner, and in numerical order, are ranged together in juxta-position—in the manner of the squares in a *chess* or *draught* board, and, like them, enclosed in a square frame. Total number of questions (suppose) 1000 : number of the above square tickets in each frame, as in a Polish draught board, 100 : on this supposition, number of *boards* requisite, 10 : size of the tickets such as shall suffice to render it manifest to the requisite number of eyes, at one view, that for every question there is a ticket : and that for no questions there are tickets more than one.

Name of a ticket of this sort, a *question-indicating ticket* ; or, for shortness, a *question-ticket*.

Instructional and Enactive.

ART. 68 or 9. Manner of drawing out the *question-tickets*.

1. A box is provided, figure square or cylindrical ; size, such as to admit of the tickets being thoroughly shaken in it, in such manner that no traces of the order in which they are originally deposited shall be perceptible : for a cover, it has a cloth, in which is a slit, long enough to admit a hand ;—fittest hand, that of a child, not old enough to be exposed to the suspicion of having received instructions enabling it to act with discrimination. When the tickets have been dropt into the box, and a stiff cover substituted to the flexible one, the box is handed over to a number of persons successively, to be shaken for a sufficient time by each : the inflexible cover being replaced by the flexible one, the hand is intro-

duced into the aperture, and the question-tickets, in the predetermined number, drawn out, and, as they are drawn out, exhibited to all present, and in the eyes of the same persons lodged, as expeditiously as may be—and now likewise, in so far as the necessary gaps admit, in numerical order—in an appropriate frame. The frame is thereupon covered up and sealed, and, either by the numerical order, or by fresh lot, may be determined—which of the several questions shall be presented to the several probationers.

Instructional.

ART. 69 or 10. In the same manner may be determined whatsoever *exhibitions* the several probationers shall have to perform.

Institution, in the practice of which this same *fortuitious* mode of selection, for the probation of appropriate aptitude, is exemplified, the *Health subdepartment* at Berlin.*

* Work from which the indication of it was taken—"A Connected Report of the Speeches delivered by Mr. Lawrence." 8vo. London, 1826, p. 102. Sole indication of *lot* there furnished—"taking out of an urn:" no ulterior indication being, on that occasion, regarded as necessary. This little work of the illustrious Therapeutist would form a highly instructive Supplement to the present section: *Uses* of it—1. Obstacles to official aptitude in general, indicated: 2. Established modes of trial, exemplified.

Reform in the English style.—In the Act, anno 1825, 6 G. 4, ch. 50, relative to *Jury Trial*, and commonly called Mr. Secretary Peel's Act, § 26, the following are the words in which the mode of selection there appointed is described:—"Such pieces
" of parchment or card, being all as nearly as may be of equal
" size, shall be delivered unto the Associate or Prothonotary of
" such court, (viz. King's Bench, Common Pleas, or Exchequer,) by the Under Sheriff of the county, or the Secondary
" of the city of London, and shall, by direction and care of
" such Associate or Prothonotary, be put together in a box to
" be provided for that purpose, and when any such issue shall

Instructional.

ART. 70 or 11. A mode—the surest and most commodious of all that presented themselves—

“ be brought on to be tried, such Associate or Prothonotary
 “ shall in open court draw out twelve of the said parchments or
 “ cards, one after another.”

On this occasion, what, on the part of the prime author of this act, and the draughtsmen respectively, was the design—whether to continue the present practice of *selection by choice*, called *packing*, or to substitute *chance* to it—is more than the author of the present work, by whom a volume on the subject had been published, can take upon him to say: what he *does* say, is, that if, having the act to draw, it had been his design to continue the reality of choice, with the appearances of chance to serve as a veil to it,—unless the fear of being detected by the choice made of means so palpably adverse to the professed end had not stayed his hand,—similar to the above wording, probably identical with it, is that which he should have employed.

In the new House of Commons, should any such *chance* happen to it as the containing so much as a single member, to whom the difference between *packing* and *non-packing* were any thing different from a matter of entire indifference,—a motion will be made for an amendment, having for its object the substituting *chance* to *choice*. In this case, *mutatis mutandis*, unless aptitude for the professed purpose be religiously avoided, the wording in the text, or something not dissimilar to it, may, by another chance, be found to answer the purpose.

Thus much as to theory: now as to practice. In the natural course of administration and judicature, supposing, on this or that occasion, *choice* regarded as more conducive to *expediency* than *chance*,—gratification will not probably be given to the desire, but on some few, and those adequate occasions: for, in some nine cases out of ten, either the course taken by the verdict will be a matter of indifference, or the verdict suggested by *expediency* will be deemed sufficiently secured by other causes. By the multitude of the occasions, on which no point would be to be gained by unfairness, the habit of fairness being thus rendered a matter of notoriety,—a high ground will thus have been formed, from which to thunder down the charge of insincerity, on whosoever shall have had the audacity to speak of any such intention as that of ever putting, to their obvious use, the instruments provided as above. Thereupon, should peradventure any *packing-worthy* occasion happen to taken place, there

being thus proposed, for obtaining a decision at the judicatory of *Fortune*, this, as well as any other, may be the place for taking and exhibiting a supposed all-comprehensive view of the *occasions* on which, and the purposes to which, beneficial application may be made of it.

are they at hand—the effectual means of choice, and the obvious manner of giving effect to them, much too simple to present any demand for instruction in the nimble-fingered art. Nothing is there to hinder a mark from being put on one side of a ticket, on the other side of which a name is written : not that any such trouble is necessary; for nothing is there to hinder the names—one and all—from being uppermost.

In the formation of the immediately acting list, a sort of gauze veil, with a colouring of *chance* upon it, is thrown over the packing machinery, as above. But the *original* list, out of which this immediately acting list is thus to be packed, by whom, and how it is to be formed? Answer. By the *Sheriff*—a member of the aristocracy, named every year by the King. This, per §§ 13, 14, without disguise. And, lest this original garbling should not suffice, by whom is this garbled list to be regarbled? Answer. By the very judicatories, whose power of garbling was the grievance, to which this statute is the professed and supposed remedy : for, by § 20, all the great criminal courts, commencing with “the King’s Bench,” are expressly confirmed in the power of doing whatever they please in regard to the selection of jurors—“in manner heretofore used and accustomed,” . . . by “order, orally or otherwise . . . amending or enlarging the “panel of jurors returned for the trial of any such issue.” And this *heretofore known and accustomed manner*—supposing the existence of any possibility of knowing it—by whom is this possibility possessed? By the judges, and them alone : by the judges, who, on each individual occasion, cause this supposed check upon their conduct to be whatsoever best suits their purpose.

Thus by this statute is the acknowledged grievance—instead of being, as professed, remedied—aggravated to the very uttermost ; and the jury system—the supposed check to despotism—and, so far as it is a check, the only check by law established, converted, from a feeble and very imperfect *check*, into a most powerful *instrument*.

Instructional.

ART. 71 or 12. Cases, in which this same mode of selection is susceptible of being employed with advantage in the attribution and distribution of *benefits* in other shapes besides the above : — the benefit too small in value to be administered in the shape of the smallest denomination of coin ; or at any rate to pay for the unavoidable expense of *requisition* or *transmission*, with the intermediate and subservient operations included in that of *communication*. Examples :

Division of a fund constituted by, and composed of—

1. The effects of a *proprietor deceased*.
2. The effects of an *insolvent*, extraneously declared such, or self-declared.
3. The subject-matter of a *bequest* or *donation*, ordaining money from a certain source to be divided among persons of a certain description.
4. *Prize money* : money produced by the division of a mass of specie, or sale of a mass of property in other shapes, taken in *war*.

Instructional.

ART. 72 or 13. Cases in which it is susceptible of being applied to the *location* of a *burthen* : the burthen, (suppose) *that* which is imposed by the obligation of rendering service, burthensome to the individual rendering it, but regarded as serviceable to the community at large, or this or that section of it.

Case I. Delinquency not imputed. Examples:

1. Militia service. As to this, see Ch. x.

DEFENSIVE FORCE.

2. Quasi-jury service. As to this, see Ch. xvi.
QUASI JURY.

Instructional.

ART. 73 or 14. In these cases the supposition is—that the burthen is not divisible. In *itself* it certainly is not: but, in respect of *time* of duration,—personal service, in any shape, is susceptible of division. Moreover, where the burthen itself is *not* divisible, the *hardship* attendant on it is divisible: to wit, by grant of pecuniary compensation, coupled with the division of the burthen of paying the money among the several persons among whom the correspondent benefit is shared.

Instructional.

ART. 74 or 15. Case II. Delinquency imputed, and regarded as proved.

1. Of delinquents, convicted or convictible, the number so great, that, if punishment were applied to every one, the benefit of the remedy, applied by the aggregate mass of it, would be outweighed by the sum of the burthens, imposed by it on the delinquent individuals and their several connexions.

Instructional.

ART. 75 or 16. Physically speaking, in the nature of things, *chance* is capable of being employed either *in lieu* of *choice*, or *in association* with it: in association with it, either, 1. by being made to *precede* it, or 2. by being made to *follow* it.

The being employed with it *at the same time* in a decision on the same point, was scarce worth

noticing: on exactly the same point, at the same time, it cannot be: if, of any proposed subject-matter, one part be placed under the dominion of *choice*, the other under that of *chance*,—by this arrangement, nothing more is done than the taking of the two thus distinct cases and confounding them into one.

Instructional.

ART. 76 or 17. What is called a *lottery*, may be constituted—1. by the act of the parties interested—*i. e.* by a *contract*; to which, as to other contracts, the sanction of law is applied: or 2. by the law itself, without waiting for any consent of parties.

Instructional.

ART. 77 or 18. The case in which the consent of *parties* is *not* waited for—the institution of the lottery being the act of the *law*—is the only case that belongs to the present subject. The other case belongs to the *expositive* matter of the *Penal Code*, and has no place here. Note always, that, in the case of a Government lottery, in the same manner only as an individual contracting party, does the Government act,—not in its coercive character. In a Government lottery, no man is compelled to purchase tickets, any more than in a private one.

FURTHER EXTRACT

FROM

PROPOSED CONSTITUTIONAL CODE.

Supplement to § 17. Located, how.

Ratiocinative.

ART. 37 or 1.—*Pecuniary-competition* principle. Reasons, in support of it as hereinabove employed: employed, to wit, not as decisive, but as contributing in subordination as above, to the *aptitude-manifestation system*, to the guidance of the decisive choice given to the responsible locating superordinate.

Ratiocinative.

ART. 38 or 2.—I. Reasons, direct and intrinsic, deduced from the greatest happiness principle applied to the nature of the case.

Case I. The situation, a *situation of simple trust*, as per § 16, Art. 12, 13: for appropriate *moral* aptitude, adequate provision being supposed to have been made: to wit, by § 16, *Locable, who* (Art. 33, 34, 35, 36, 40), and no special appropriate intellectual or active aptitude being regarded as necessary.

The presumption here is, that, but for some special reason, assignable and assigned, to the contrary,—the choice of the locating superordinate will fall upon that candidate, in whose instance the result of the pecuniary competition is most favourable to the public purse. On this supposition, all parties will have cause to be pleased: to wit,

1. The *community* at large; because that choice has been made, which is most beneficial to its aggregate pecuniary interest.

2. The *locating* functionary: the candidate's aptitude, and thereby the locator's responsibility, alleviated by the result of the probationary trials, above; say then the *locating functionary*: unless it be his desire, at the expense of the community, in breach of his duty and engagement, and at the risk of his own fortune and reputation, to gain to himself an undue benefit, in the shape of *patronage*.

3. The candidate, by whose own offer the situation is procured for him.

Ratiocinative.

ART. 39 or 3.—II. Case II. The situation, a *situation of trust and talent*: to wit, after the manifestation made, of the grade acquired by the candidate, in the scale of manifested appropriate aptitude in all its branches, as certified by the certificate given by the *Examination Jury*, as per § 16, Art. 17; that document contributing, in conjunction with the

result of the pecuniary competition, to the guidance of the decision entrusted to the responsibly-locating superordinate.

I. Reason, grounded, as in the former case, on *intrinsic utility*. Only where, to the purpose of the practical conclusion, the claims of the two candidates, on the ground of the manifestation made as to *appropriate aptitude*, as above, are, in the opinion of the *Examination*, or say, *Qualification Judicatory*, virtually equal,—does it seem likely that the determination will be made in favour of him, whose offer, on the ground of its favourable-ness to the *pecuniary interest* of the community, is accepted. The locating superordinate being, by § 6, *Self-suppletive function*, responsible for the conduct of his subordinate,—he is thus, by a personal interest of no inconsiderable strength, urged to have due and adequate regard to the thus manifestly demonstrated *appropriate aptitude*. By a deficiency in the aptitude, he would stand exposed to be more or less a sufferer: in the small saving to the public purse, he would have no perceptible share.

The arrangement affords, therefore, a prospect of good, and this without a prospect of evil in any shape.

Ratiocinative.

ART. 40 or 4.—II. Reasons extrinsic, deduced from authority and practice.

1. In England, among the highest of the ruling few, the tide of events has of late years

borne up some, in whose declared opinion, not only the price of labour,—in whatsoever shape—unskilled or skilled,—but also the price of commodities in general, and in particular of those means of sustenance which are worth all other commodities put together,—should be minimized; and that, as the only instrument of minimization, the competition principle should be uniformly and steadily employed.

Instructional.

ART. 41 or 5.—These same distinguished statesmen—would they—durst they if they would—accede to the application of this same instrument to the reduction of the price of the labour performed by themselves and their present colleagues? or—not to insist upon that which could not reasonably be proposed—of the like labour when performed by their successors, and the colleagues of those same successors? O yes: when the energy of the people is to such a degree troublesome, that, in the high places in question, regard for consistency, and the comfort of the subject-many, cannot, consistently with the comfort of these same ruling few, be refused.

Instructional.

ART. 42 or 6.—At present, engaged, by so efficient an interest, to *maximize*, instead of minimizing, the expense of *official* labour,—they stand engaged by a no less efficient interest, to *minimize*, instead of maximizing, all need, and thence all proof, of *appropriate*

aptitude with relation to such labour. If by competition—that competition being at the same time free and unrestrained—the degree of aptitude on the part of all competitors were made known,—the chance, in favour of the objects of their care, would, instead of being equal to certainty, be but as one to ten, or twenty, or whatsoever greater multiple of their own number might be that of their fellow competitors. Moreover as,—natural talents, and other means being supposed equal,—*proficiency* will be in the direct ratio of *exertion*, and exertion in the ratio of degree of *need*—those who, without exertion, are sure of having, in this shape, what they have need of, will not bestow any exertion at all on the acquisition of *appropriate aptitude*: and their natural *place*, instead of being certainly at the *top*, will be probably at the *bottom*, of the scale. Thus it is, that to the ends which the greatest happiness principle requires to be pursued, will be substituted the direct opposites of those exclusively justifiable ends: and while, for the benefit of the hands in question, the *expense* of official service, or of the appearance, or the false pretence of it, without so much as the pretence of it, is *maximized*,—*appropriate aptitude* for the performance of it will be *minimized*.

Instructional. Exemplificational.

ART. 43 or 7. — The more immediately education for office is under the direction of the ruling few, in whose hands the fixation of

the quantum of remuneration, and the location of those by whom it is to be received, are conjoined,—the more striking and instructive will here be the exemplification of the relation between cause and effect.

Instructional. Expositive.

ART. 44. or 8.—Note that, in the case of pecuniary competition is comprised in a certain way the case of *gratuitous service*; gratuitous service constituting *one point, or say degree*, in a scale of indefinite length, established by pecuniary competition; at the same time there is a necessity in marking the distinction between them; the difference in point of efficiency and extent of application being so great; the application of gratuitous service, (including that which is so in appearance, and is always called so,) being widely extensive, while the application of pecuniary competition to personal service in this branch of the public business is, nearly if not altogether, as yet without example.

Applied to the expense of the Official Establishment taken in its totality,—(expense of remuneration for personal service included,) it is not in the power of pecuniary competition, by reduction of expense, to carry on good economy anything near to the point of gratuitousness—the point at which expense is equal 0.

At the same time, if applied to the purpose of engaging personal service in particular

official situations, it is capable of carrying that same benefit not only up to the gratuitous point, but to a degree to an indefinitely amount higher; the matter of wealth being but one of divers instruments, by the application of which personal service is engaged; others being *power, reputation, and dignity*; the dignity, that which results from the *nature of the occupation*, with or without *factitious* honor and dignity superadded: in such sort that, instead of receiving money in compensation for the service rendered by him, in taking upon himself the obligation of exercising the functions of the office considered as a *burthen*—a man will be content to give money, for the faculty of exercising those same functions, that same faculty being regarded by him as a *benefit*.

But, in the instances of gratuitous service here alluded to, in so far as remuneration in a pecuniary shape has place, neither is it paid avowedly by the hands of Government for service performed in the situations in question; nor is service in any shape rendered to the whole community, nor otherwise than to a small particular and sinister interest of a small part, at the expense of the interest of the whole, which is thereby accordingly *diserved*, instead of *served*: in so much that, in so far as this same illegal service is performed, the remuneration derived from it belongs not to the present case; and, being so completely

unfit or adverse to the purpose of the pecuniary competition, — required to be, with proportionable care, distinguished from it.

In English practice, to this head belongs the situation of *Member of the House of Commons*, and *Member of the Unpaid Magistracy*, styled *Justices of the Peace*. In these instances, nominally the service is uniformly gratuitous; really so, according as abuse does not or does take place.

Instructional. Ratiocinative.

ART. 45 or 9.—To the proposed aptitude-securing and expense-minimizing system, as composed of the public examination system and the pecuniary competition system taken together, but followed by the choice left to the locating functionary,—various considerations, in the character of objections, present themselves, as having been, or being more or less likely to be, urged. With all employable diligence they have been searched for, and found reducible under the heads following—

I. Objection, to the public examination part of the system.

1. Timid merit excluded.

2. The unopulent excluded thence, equality violated.

II. Objections to the pecuniary competition part of the system.

3. Venality established.

4. Munificence or say *liberality* excluded.

5. Depredation, sharpened by indigence, invited.

6. Aptitude diminished : aptitude being *as* opulence.

Of these in their order; with their answers.

Ratiocinative.

ART. 46 or 10.—Objection 1. *Timid merit excluded :*

Answer. In the case of a more or less considerable proportion, of those who otherwise would be candidates for office, this effect may ensue. But, it presents not, to any precise amount, so much as a deduction from the aggregate of the good effects expectable from the system; nor anything more than the shadow of a reason for the rejection of it; yet entire rejection, if anything, is what it calls for. Proportional number of the individuals excluded by this their misfortune, say at random, and only for argument's sake, *one-tenth*. Suppose then the system to be in other respects a beneficial one,—such it will be—in the first place to the whole body of the unexcluded candidates, on their several individual accounts; in the next place, to the whole community, on the aggregate account. Give effect, then, to the objection, and for the sake of the unliquidated benefit to the one-tenth, the rest of the community will be deprived of that same benefit in one shape, and the rest of the community in the other. On the other hand, suppose the

system rejected, this same one-tenth for whose sake it is rejected, in what determinable way will they respectively be benefited by the rejection? To this question, all answer is impossible.

Then, as to the *existence* of the alleged justificative cause of the proposed rejection—the supposed *merit*. In the instance of this tenth part, where is or can be the proof of it? True it is, that in whatever line of study or instruction the merit is supposed to have place,—timidity, to the degree and to the effect in question, is not incompatible with it; but, on the other hand, of the existence of the merit, neither conclusive, nor any how weakly soever presumptive evidence, does the timidity afford. Of merit, in a word, timidity *may be* an *accompaniment*, but *is not* a *cause*.

This, and all other objections notwithstanding,—suppose now the *public examination* system established,—observe what, with regard to *merit* and *timidity*, will be the consequence. The trial to be submitted to being alike visible to all eyes, each individual, who might otherwise feel disposed to enter upon this career, will consider and ask himself whether he has *nerve* enough to undergo it. Let the answer be in the negative, he will then bid adieu to a pursuit, for which his own judgment pronounces him unfit, and betake himself to one, for which it pronounces him fit. So doing, where will be his loss? Answer

—No where: for proof, see answer to Objection 1. Before him lie, for his choice, all professions and other profit-seeking occupations, the profit from which is—not, as here, confined within the narrowest limits possible, but altogether unlimited. So much for proofs in a *pecuniary* shape. As to *reputation*, and esteem for services rendered to the public by intellectual labour,—the press is open to him, and timidity,—at any rate, the sort of timidity here in question, —is no bar to any use he may feel disposed to make of it.

Ratiocinative.

ART. 47 or 11.—But the proposed system—does it not hold up to view *unopulence* as an efficient cause of aptitude?

Answer. True: but only when in a certain degree, and, in that degree, only as a partially contributing cause, and that a remotely operating one, operating through the medium of *appropriate examination*. True it is, that in the character of a learner, looking to be one day a probationer and competitor for offices,—a man, whose pecuniary supplies are scanty, is *likely* to use more exertion than a man whose pecuniary circumstances are abundant;—to use more *exertion*, and thence, in so far as depends upon exertion, to acquire a greater degree of appropriate intellectual and active aptitude. But the immediately applying probative test of this same appropriate aptitude, is—not the situation in the

scale of opulence, but the result of the *examination* undergone; and, by this immediately applying *direct* evidence, what little probative force belonged to the faint and remotely applying *presumptive* evidence, is superseded and reduced to nothing.

Ratiocinative.

ART. 48 or 12.—Objection 2. *The unopulent excluded: thus, equality violated.* Answers—

1. The provision for equality must always be subordinate to that for security, or society cannot subsist. See *Leading Principles*, &c.

2. Supposed relation of equality not real. The supposed loss to the classes in question will not have place. *Into* this source their industry could not be turned in quest of profit, without being turned aside *from* other sources much more lucrative: to the quantity obtainable by them from this source, there would be limits, and those rendered as narrow as, by application made of the frugality-maximizing principle, appropriate aptitude on the part of rulers could render them: to what is obtainable by every man from other sources, there are no such limits.

3. The bar, opposed to the unopulent by the proposed instrument of frugality, is not—like the bar opposed under some governments, by want of nobility—an impassable one. By raising himself to a degree of opulence adequate to the purchase of the office,

—the most unopulent man, supposing him demonstrated to be, by intellectual attainments, qualified for it, will be able to acquire it.

4. By the access, which, by the objection, is proposed to be left to the unopulent,—entrance into office would neither be secured to them, nor rendered so probable to them, as to the more opulent: the greater the opulence, the greater the means of access to patrons, who, of course, belong to the opulent class.

5. From the rejection of this necessary security, great would be the quantity of incontestable *evil* pressing upon this very class: evil, pressing upon them in a much more tangible and sensible shape than any *good*, of the chance of which it is charged with depriving them, can be shown to wear: *burthen of taxation*, to the amount of the money which the competition would save is in proportionable quantities added to that of the matter of patronage, with its corruptive influence. Mass of pecuniary remuneration saleable, say 1,000,000*l.*, a year: saving effected by the competition, 200,000*l.* To reject this instrument of economy, would thus be to impose a *tax* of 200,000*l.* a year on opulent and unopulent together: and this for no better purpose, than the turning aside the profit-seeking industry, of the unopulent, from other channels into this.

6. By the rejection of this proposed in-

strument of frugality, an exclusion would be put, not only upon the frugality, but upon the bringing into play a main security for, and thence instrument of, appropriate aptitude; namely, *relish* for the business. The less the emolument,—in other words, the more a man gives for the office,—the greater is thus proved to be his relish for the business of it: while to him who gives nothing for it, it may be an object of disgust: of disgust, not surmountable but by the extreme of indigence.

No, says another *objection*: what is proved is—not the alleged relish, but a plan for getting possession of the office, for the purpose of converting into an instrument of depredation the powers belonging to it. *Reply*: Of no such plan is the formation in any degree probable. This objection is Objection 5, *Depredation*, &c. which, with the answers, will be found in its place.

Ratiocinative.

ART. 49 or 13.—Objection 3, *Venality established*. The plan makes offices *venal*: it introduces venality into office.

Answer. 1. Source of the objection, confusion of ideas: confusion produced by the misapplication of the word. What is proposed to be sold is—not to individual suitors at the office the *acquiror* of it, but to the acquiror himself, the *emolument*, in a particular shape, attached to it.

2. To find such a form of words, as should give to the objection, as above, a sort of superficial colour of reasonableness, required some industry. That which the objection applies to is—not the arrangement itself, but a particular word or two, which are capable of being employed in speaking of it. For example, the modes in which the amount of the pecuniary part of the remuneration is capable of being reduced and minimized, are, as above shewn, two: to wit—1, The *reductional* mode; according to which, mention is made of the greatest *reduction* the bidder will consent to see made from a determinate salary proposed: 2, the *emptional* mode; according to which, mention is made of the greatest sum he will give for it, if *unreduced*. Employ the reductional form of expression, the objection vanishes: but, the emptional being in effect precisely the same thing as the reductional, so likewise does the emptional.

3. The party, to whom *service* in any shape is rendered by the arrangement, is the *public* alone: not any individual whatsoever: of no individual is any service *bought by*, of none any *sold to*, any other.

4. Associated with the idea of *venality* is that of *corruption*; and by the objection is meant, if anything, that, by the arrangement, as often as it is exemplified, *corruption*, in some shape or other, has place, or at the least is *probabilized*; and that thence, in some shape or other, so is relative *inaptitude*.

5. But, the real effect of the arrangement is precisely the reverse: for, 1, Minimizing the pecuniary value of the situation, it minimizes the quantity of the matter of corruption which the patronage places in the hands of the locating functionary.

6. 2, Minimizing the value of the pecuniary remuneration, it maximizes, as above, the degree of *relish* which the candidate is likely to have for the functions which he is desirous of having the exercise of: for, the less the inducement he requires in the shape of *money*, the greater is the inducement he possesses in the shape of *relish*, or he would not make the offer, which, by the supposition, he does make.

7. Minimizing the value of the situation, and thence of the patronage, it minimizes the probability of its being given by the patron to a *protegé*, whose sole *relish* is for the *money*, and who, in regard to the *functions*, has neither *relish*, nor *aptitude*, in any shape.

8. As to corruption, so far then from acting as a *ferment* to it, the competition system is, in the emptional as well as in the reductional mode, a *specific* against that disorder: it is for want of such a specific, that corruption takes place, when it *does* take place.

9. In vain would it be said—a man, who sees sinister profit, in this or that shape, as being capable of being made, from an abuse of the powers attached to the situation,—will offer and give more for it than one who sees

no such prospect. In vain; for, by the reduction thus made in the quantity of money the man will have at command, no addition is made to whatever facility he will have for such abuse: on the contrary, as above, that facility is diminished by the diminution of whatever facility he may have as to the finding associates and supporters for the abuse:—the greater the *reduction* he will thus submit to,—and still further, if so it be that he offers to give more for the salary than it is worth, the more he offers to *give* for it,—the more strongly he draws upon himself the attention of all concerned, and puts them upon the watch to find out—by what course he expects and proposes to himself to endeavour to reap the sinister profit supposed to be in contemplation. Suppose even, that, as applied to the state of things under this or that existing government, the objection would be a fatal one,—it would not follow that it would amount to anything, when applied to the one here proposed: for, in no existing government can any system of securities for appropriate aptitude be found comparable in point of efficiency to what may be seen proposed here.

Ratiocinative.

ART. 50 or 14.—Objection 14, *Munificence*, or say *liberality, excluded*:—Exclusion put upon that virtue in one quarter, by which *merit* in other quarters, and in all manner of shapes, is brought into existence.

Answer: Let but misapplication of words be argument—argument, affording in the present case justification for useless and pernicious expense,—true it will be, that, as good argument may be made out of the word *munificence*, or the word *liberality*, as out of the word *venality*. *Liberality* may perhaps serve still better than *munificence*. Being more extensively in use, especially on the popular side, it is more strongly as well as extensively associated with the sentiment of approbation; and, by the laxity of its import, better adapted to the purpose of delusion. But, such being the nature of the arguments, see now on what ground stands the title of either of them to the property of giving birth to merit.

When, on the *one* part, what is called *liberality* is exercised, the alleged existence of *merit* on the *other* part—on the part of him or those in favour of whom the self-styled virtue is exercised, is constantly alleged. Constantly alleged,—so far from being constantly proved, it is seldom so much as attempted to be proved. The place of proof is occupied by assertion: of the assertion, when orally delivered, the probative force is as the loudness and reiteratedness of it, joined to the force and number of eulogistic epithets and phrases bestowed on the alleged possessor of the asserted merit; and scorn, with the imputation of envy and insincerity, on all who presume to question it.

In the Official Establishment of the City of London, conquests have, it has been said, been of late years made of official situations more than one by the virtue of *liberality* from the vice of *venality*; these conquests made, and the source of them—a correspondent quantity of patronage—put into official pockets. The substance has now been seen of the eloquence by which these conquests were achieved.

Ratiocinative.

ART. 51 or 15.—Objection 5. *Depredation sharpened by indigence.* When a man has paid the purchase-money (says the objection) he will be left in a state of indigence, such as will render it, as it were, a matter of necessity to him to commit depredation at any hazard. Answers—

1. The objection supposes, that by a certain, or an ascertainable, quantity of emolument attached to the office, the endeavour to commit depredation may be prevented, or at least in an adequate degree improbabilized. Altogether groundless is this supposition. Draw the line where you will, true it is, the comparatively unopulent functionary will, it is probable, endeavour to commit depredation: and commit it he will, if in his eyes the benefit of the depredation is greater than the burthen from detection: probability in regard to detection being taken into account. This will the comparatively unopulent do; but so

will the comparatively opulent. The most opulent of the functionaries have always been the most voracious of depredators. Witness monarchs almost without exception, and more particularly the most absolute. Witness even "*the best of kings*," as he was so commonly called: witness he, whose debts, it was asserted in Parliament, had been nine times paid by Parliament, notwithstanding his million a year,—the exemption he gave himself from the income tax,—and his seventeen millions, obtained for his own particular use,—without previous declaration of war,—by the instrumentality of a richly-remunerated Judge,—in point blank contradiction to an act of the Legislature, passed in the year 1744: the decrees issued without other warrant than the words *Droits of Admiralty*, the assertion that the king is *Lord High Admiral*, with reference made to an order of the *King alone*, dated in the year 1665-6, and that King, *Charles the Second* (a).

2. In the situation of the comparatively opulent, the probability of depredation is greater than in the case of the comparatively unopulent, on two accounts.

1. In consideration of, and in proportion to his opulence, and the erroneously but commonly and naturally entertained supposition, of the security afforded for his probity

(a) Brown's Civil Law, ii. 57.

by that same opulence, he will be less suspected—less closely watched.

2. In proportion to his opulence, will be (as per § 15, *Remuneration*, Art. 4) his facility for obtaining accomplices in transgression, and effectual supporters to screen him against punishment, dislocation, and even disrepute. Instances, see every where.

3. Of the absence of any such degree of indigence, as can probabilize a sharpness of appetite sufficient to produce depredation,—a highly probative evidence is afforded by the very nature of the transaction here proposed: what a man gives for the office with the emolument attached, he would not give, if in his eyes the emolument, with his remaining income, if he has any, will not be sufficient for his exigencies.

Instructonal. Ratiocinative. Exemplificational.

ART. 51 or 15.—This was the argument against economy, brought out and made the most of, on the occasion of his sham Economy Bill, by *Edmund Burke*, foaming with rage at *Necker's* disinterestedness, then staring him in the face:—Edmund Burke, on whose principle thus displayed, the accidentally divulged depredation committed by two of his *protégés* (a) formed, not long afterwards, so instructive a comment. A document, in no

(a) Powel and Bainbridge.

small degree instructive to the great body of the people would be a list of at length notified depredators, with the particulars of their respective crimes, under a system of sinecure and overpay, with an assurance of support and protection. With the commencement of the reign of George the Third, it might commence, and be continued onwards, as occasion called, till the time, should it ever arrive, when, the eyes of the people having been sufficiently opened, the scene had closed.

Instructional. Ratiocinative.

ART. 52 or 16.—In this objection, what there is of truth, or at least of the semblance of it, rests altogether upon a state of things, in respect of official management and remuneration, in its whole tenor the direct opposite of the one here proposed. A man, whose life has been a life of luxury without anything of his own to support it—the dependent of some patron, whose habits have been correspondently luxurious—is put into an office, with the emolument which has been attached to it, for the purpose of enabling him to continue in the same habits. If then this same emolument is *not*, by more than to a certain amount, beneath his habitual expenditure,—he confines himself within the bounds of it, and neither peculation nor extortion have place. But, if it is to a certain amount lower, he finds himself to such a degree un-

comfortable, that rather than continue so, he risks the engaging in some one or more of the forbidden practices, and exposing himself to the consequences.

“ But,” it may be asked, “ knowing his own propensities, how came he to take upon himself the office, and thus subject himself to this risk ?” Answer. Nothing better offered ; the situation of absolute dependence was uncomfortable ; the mass of emolument in question, how inadequate soever, constituted, by the whole amount of it, a *portion* at any rate of the means of independence—and the general character of the whole establishment of which this office forms a part, was that of maximizing the facilities for *ease* on the one hand, combined with accustomed, though unlegalized profit in every shape, on the other. As to the punishment, he saw it altogether without example. Dislocation, and that self-effected, and in the quietest and most unobserved mode, the worst that could ensue : dislocation, and from what ? from an office which, after experience, was found not to give what was expected from it.

Such is the state of things—such the frame of Government, in which the objection originated, and on each occasion will be reproduced. But, of the whole multitude of securities *here* proposed against abuse, scarcely will *that* system be found to exhibit so much as a single *one*.

Ratiocinative.

ART. 33 or 17.—Objection. *Aptitude diminished. Aptitude being as opulence, lessening opulence you lessen aptitude.*

Thus, for shortness: for precision, a few more words are necessary. By *opulence*, understand—not opulence already possessed by the functionary, but opulence *given* to him: given to him *at public expence*. This being understood, say once more aptitude is *as opulence*. This is the whole theory, on which all practice is grounded. This, being an *axiom*, may without difficulty be taken for a *postulate*. If therefore in any situation you have not aptitude enough, it is because you have not given out money enough: give money enough, the aptitude comes of course; all other care is superfluous. Whatsoever be the situation, if you want twice the aptitude in it that you have at present,—give the man who is in it twice the money you had given him, you have twice the aptitude.

Note also, that, on divers occasions, the more he has, the more of it must be given to him. Instance, the metamorphosis of an indiscriminate defender of right and wrong into a Judge. The stronger the repugnance between the two characters, the greater the force necessary to effect the transition from the one to the other.

Giving out money is, in English Treasury

language, *making exertions*. If any where you want more aptitude, you must make proportionable *exertions*. Giving out money being the cause,—establish this cause, the effect follows of course. Of a barrel full of spirits, turn the cock, out flew the spirits. Into the pocket of the functionary, in with the money,—in with it flows the aptitude. As to *how* this happens, this is, in both cases, matter of *theory*; no need have you to trouble yourself with it. (a)

This objection comes in aid of the one last preceding, by which economy is presented in the character of a sure cause of depreda-

(a) Designed directly and principally for *official*, this system will, as far it goes, operate as a system of *national* instruction, and *that*, without additional cost; not to speak of education in other respects. Assistant to *that* its least extensive, will be this its most extensive though indirect influence. The better they are themselves instructed, the better will individuals, in quality of auditors at the several examinations be qualified for the judging of the degrees of appropriate aptitude on the part of probationary *locables*.

Even in England,—among the suggestions in question, if considered merely in their application to national *instruction at large*, to the exclusion of *official instruction*, with a view to *location*,—some there may be which, even to the ruling few, will not be altogether an object of abhorrence. For, in the conduct of the majority of that class, the wish to shut out all intellectual light without exception, whatever possession it may have taken in some minds, does not appear to have manifested itself, by any conclusive evidence. Delusion, by means of false lights,—and the encouragement given for the reception of them by the application of the matter of reward in the character of matter of corruption,—are the principal means employed for preventing the *subject many* from endeavouring to substitute a form of Government favourable to one hostile to their interests.

tion. Instead of *giving*, *receive* money, as the price,—of the power or other object of desire attached to the office,—you will (says the objection) have the reverse of aptitude; and the more money you receive from him, the more flagrantly unapt in every respect he will be. On the other hand (says the basis of the present objection) aptitude being *as* opulence,—give twice the emolument you give at present, you will have twice the aptitude: and so on, *ad infinitum*. Put the two objections together, you have a triumphant *dilemma*. Offer (it says) with the office any less emolument than that which you will find attached to it,—either no person whatever will accept of it, or, if any one will, his acceptance of it will be a certain proof of his inaptitude for it; with no other purpose than that of employing it as an instrument of depredation, will the acceptance have been given to it.—The offer will not be accepted:—so says *horn* the first of this same irresistible dilemma. Good. But why will it not be accepted? Answer. Because to be accepted, it must have been made: and it will not have been made. But *why* will it not have been made? Answer. Because by nobody but the maker of the dilemma can it have been made; and what *he* has made is—not the *offer*, but *the determination not to make it*. And why this determination? Answer. Because he has always been so perfectly

convinced, that the offer, if made, would be accepted, and when accepted followed by consequences the opposite to those which his dilemma assigned to it; to his own assertion his own conduct gives the lie.

Tell him of any other country in which the rate is less, then come two other objections.

1. *That country differs* from this.

2. Of the smallness of the remuneration, the result is actually, in that country, a proportionable degree of inaptitude; then, for proof, comes the assumption just disposed of.

As to the *difference*,—propose any enquiry into it; whether, for example, it is so great as to warrant, in the whole or in any part, the practical conclusion deduced from it,—Oh no; this would be too much trouble. So will say the objector; and in this instance what he says may be admitted for true; a Committee would not be very instructively employed, in the enquiry whether it be true—that, when a man breaks a contract, for the performance of which no such securities as might be are provided, it is because it does not give him all he would have been glad to get from it, and not for want of those same necessary securities.

LONDON:

PRINTED BY C. AND W. REYNELL, BROAD STREET, GOLDEN SQUARE.

DEFENCE

OF

ECONOMY

AGAINST THE

RIGHT HONOURABLE

EDMUND BURKE.

FIRST PRINTED IN JANUARY 1817.

DEFENCE

ECONOMY

AGAINST THE

RIGHT HONOURABLE

EDMUND BURKE

PRINTED IN LONDON 1791

ADVERTISEMENT.

THE paper here presented to the reader under the title of *Defence of Economy against the Right Honourable Edmund Burke*, together with another containing a *Defence* of the same more useful than welcome virtue *against the Right Honourable George Rose*, were written as long ago as in the year 1810. At that time the joint destination of the two papers was—to form a sequel to a tract of no great bulk, having for its title *Hints respecting Economy*. For its subject it had taken the whole of the official establishment, and for its objects two intimately connected practical operations, viz. *minimizing official pay*, and *maximizing official aptitude*: operations the mutual subservience of which, in opposition to the universally convenient, universally received and acted upon, and in truth but too natural opinion, of their incompatibility, was maintained. The circumstance, by which the publication of it, and in some degree the completion of it was suspended, was the expectation of obtaining certain documents, which in the way of exemplification and illustration afforded a promise of being of use. Meantime the turn of affairs produced some incident or other, by which the author's attention was called off at the moment

to some other quarter; and thus it is that altogether the three papers have been till now lying upon the shelf.

As to the two objects in question, so it was, that the plan, which had presented itself to the author as that by which both of these objects might be secured, and the only one by which either of them could be so in any degree approaching to perfection, having the misfortune to find itself reprobated with one voice by the two distinguished statesmen abovementioned, the removal of the impediment opposed by so strong a body of authority, presented itself of course as an object of endeavour altogether indispensable.

In the order at that time intended, a statement of the principles which had presented themselves as claiming the direction of practice would have preceded the examination here given of the principles which it was found necessary to combat: hence the reference which may here and there be found to portions of matter, which neither in any other place in which they could be referred to have made, nor in this place can make, their appearance. By a change in the order thus originally intended, that one of the two defences which will here be found (for in the present receptacle there was not room for the other)* cannot, it will therefore be evident enough, but appear under more or less of disadvantage. But to the rendering them perfectly intelligible as far as they go, it did not seem, that to either of them any of the matter which belonged to that by which they had been designed to be preceded was necessary: and, by the forms of warfare, especially considering the situation and character of the person against whom it was una-

* This tract was first printed in the *Pamphleteer* (No. 19.)

voidably directed, the attention of many a reader (it has been supposed) may be engaged, whose perseverance would not carry him through the dry matter of a sort of didactic treatise, the principles of which are in a state of irreconcilable hostility to the personal interest of that class of persons which forms the subject of it, to which it cannot but look for the greatest number of its readers, and without whose concurrence, how far so ever from being accompanied with any degree of complacency, it could not at any time be in any degree carried into effect.

At the time when these papers were penned, not any the slightest symptom of official regard for public economy was it the author's good fortune to be able anywhere to recognise; everywhere it seemed an object of contempt: of contempt not only to those who were profiting by, but to those who were and are the sufferers from, the want of it. Under this impression, the wonder will rather be how the author's perseverance could have carried him so far into the subject as it did, than how it should happen that by the sense of a slight deficiency, the suspension should have been commenced, and, by a series of intervening avocations, have been continued. At present, in this respect, for a time at least, matters seem to have undergone some change. Surely enough, if it does not at the present, small indeed must be its chance of obtaining any portion of public attention at any future point of time. But should it happen to the two, or either of them, to obtain any portion of favourable regard, the more favourable, the greater will be the encouragement afforded for the labour necessary to the bringing the plan to that degree of maturity which would be necessary to its producing any assignable effect in practice.

Short as it is, in the intimation above given of the nature of the plan, one circumstance will already be but too undeniably visible, viz. that not only without any exception in respect of the first of its two connected objects, viz. *minimizing official pay*, but likewise, and with very little exception in respect of the other, viz. *maximizing official aptitude*, nothing can be more irreconcilably opposite to the particular interest of that class of persons, without whose concurrence no effect whatever could be given to it. Yes; even in respect of this latter object: for, if, in the instance of every office, so odd an effect as that of an exclusion put upon all who were not the very fittest for office, or even upon all who were not flagrantly unfit for it, were to be the result, an exclusion would thus be put upon all those, for whom, and their connections, and the connections of those connections, and so on, for whom gentlemen are most anxious, because in every other way they find it most difficult, to provide. But if on the part of the plan in question the objection is grounded on the opposition of interests, and consequent unwillingness were to be regarded as a proof of impracticability, it would be a proof, not only that in government nothing good *will* ever be done, but moreover that in government in general, and in our own in particular, of all the good that *has* ever been done, the greater part has *not* ever been done. Among the points on which government turns, some there are relative to which the interest of the ruling few, be they who they may, coincides with the universal interest; and as to all these points, in so far as it happens to them to know what that same universal interest is—as to all these points, gentlemen's regard for that same universal interest may be reckoned upon without

much danger of error, or much imputation on the score of credulity. Unfortunately, under most governments, and under this of ours in particular, other points there are, in which that partial and sinister interest is in a state of implacable hostility with the universal interest: and of this unfortunate number are the two just mentioned: and so far as this hostility has place, so far is the universal interest, as being the least condensed, sure of being overpowered by, and made a constant sacrifice to, that which is most so.

In this state of interests, the subject-many may deem themselves particularly happy, when, to make up a provision worthy of the acceptance of a member of the ruling few, nothing more than the precise amount of that same sum, with the addition of the expense of collection, is taken out of the pockets of the subject-many. An unfortunately more common case is—where for each penny put into the privileged pocket, pounds to an indefinite number must be, and are accordingly, taken out of all pockets taken together: from privileged ones in this way with more than adequate compensation, unprivileged, without anything at all. Thus it is, that, while *wars* are made to make *places*, places are made to secure commencement or continuance to wars: and, lest this should not be enough, distant dependencies—every one of them without exception productive of net loss—are kept up and increased. Yes; productive of *net loss*: for this is as uncontrovertibly and universally the case, as that two and two make four; for which reason no man who has a connection to provide for, or to whom power and glory, might, majesty, and dominion, in the abstract, are objects of concupiscence, can endure to hear of it.

As to war, so long as in the hands of those who

have speech and vote in parliament, or of their near connections, offices are kept on foot with emolument in such sort attached to them, as to be materially greater in war than in peace, who is there that will venture to affirm that, of a parliament by which an arrangement of this sort is suffered to continue, the conduct is in this respect less pernicious in effect, or when once the matter has been brought to view, less corrupt in design, than it would be if in that same number the members of that same body were by masses of money to the same value, received under the name of *bribes*, engaged by one another or by any foreign power, clandestinely or openly, thus out of an ocean of human misery to extract so many of these drops of comfort for themselves? In both cases the same sums being pocketed—pocketed with the same certainty, and under the same conditions—in what particular, except in the language employed in speaking of them, and in that chance of punishment and shame which would have place in the one case, and has not in the other, do these two cases present any the smallest difference? Tell us, good Sir William! Tell us, good your Lordship, Lord of the freehold sinecure! exists there any better reason, why emoluments thus extracted should be retained, than why bribes given and received to the same amount, and by the same means, without disguise, should, if received, repose in the same Right Honourable pockets?

In a certain sensation called *uneasiness*, Locke beheld, as his Essays tell us, the cause of everything that is done. Though on this occasion, with all his perspicuity, the philosopher saw but half his subject (for happily neither is pleasure altogether without her influence): sure it is that it is in the rougher spring of action that any ulterior operation,

by which the constitution will be cleared of any of its morbid matter, will find its immediate cause.

Yes:—in the returning back upon the authors some small portion of the uneasiness which the sufferers have so long been in the experience of—in this necessary operation, for which the constitution, with all its corruptions, still affords ample means—in this, if in anything, lies the people's hope.

The instrument by which the God *Silenus* was made into a poet and a prophet—it is by this, if by anything, that noble Lords and Honourable Gentlemen will be fashioned into philosophers and patriots: it is by this, if by anything, that such of them whose teeth are in our bowels, will be prevailed upon to quit their hold.

Submission and obedience on the one part, are the materials of which power on the other part is composed: whenever, and in so far as, the humble materials drop off, the proud product drops off along with them. Of the truth of this definition, a practical proof was experienced in 1688 by King James, in the case of England and Scotland: in 1782 it was experienced by King George and his British Parliament, in the case of Ireland. In the character of ancient Pistol eating the leek, in that same year was the first Lord Camden seen and heard in the House of Lords by the author of these pages demonstrating, by the light of an instantaneous inspiration, to ears sufficiently prepared by uneasiness for conviction, the never till then imagined reasonableness of the termination of that system, under which that island was groaning, under the paramount government of a set of men, in the choice of whom it had no share; in the same character, in the event of a similar expe-

diency, might his Most Noble Son be seen in one House, and his Right Honourable Grand Nephew in the other, holding in hand, the one of them a Bill for the abolition of sinecures, useless places, needless places, and the overpay of useful and needful places; the other a Bill for such a reform in the Commons House of Parliament, as may no longer leave the people of Great Britain, in a number more than twice as great as the whole people of Ireland, in a condition, from which the people of Ireland were liberated as above at the instance of the learned founder of an illustrious family, which was, in one instance at least, not ill taught: in a word, such a reform as by divesting the ruling few of their adverse interest, by which so long as they continue to grasp it, they are rendered the irreconcilable enemies of those over whom they rule, will leave to them no other interests than such as belong to them in common with the people, who are now groaning under their yoke.

What belongs to the only effectual remedy which the nature of the case admits of, viz. a *restoring* change (for such in no small degree it would be) in the constitution of the House of Commons—may perhaps be spoken to elsewhere: it belongs not directly to this place. What does belong to it is the nature of the principles established on the subject of public expenditure: principles not only acted upon but avowed: not only avowed but from the connected elevations, the alas! but too closely connected elevations, the mount of the houses and the mount of financial office, preached. In these principles, it was long ago the fortune of the author to behold causes of themselves abundantly adequate to the production of whatever sufferings either are felt or can be appre-

hended: and if it be without any very great demand for our gratitude, yet will it be seen to be not the less true, that to two distinguished statesmen, one of whom is still in a condition to answer for himself, we are indebted for the advantage of beholding these same principles in a tangible shape; in that tangible shape in which they have been endeavoured to be presented to view, in two separate yet not unconnected tracts: viz. in the present *Defence of Economy*, and in the other with which it is proposed to be succeeded.

Nov. 1816.

TITLES OF THE SECTIONS.

I. *Defence of Economy against Burke.*

- § I. Burke's Objects in his Bill and Speech.
- § II. Method here pursued.
- § III. Propositions deduced from Burke's Economy Speech.
 - 1. Concerning Public Money—What the proper Uses of it.—Propositions 1, 2, 3. *See Defence against Rose*, § 2, 3, 4, 5, 6, 8, 9.
- § IV. Concerning Title to Reward. Proposition 4.
- § V. Concerning virtuous Ambition, Gratitude and Piety.—Propositions 5, 6, 7, 8.
- § VI. Concerning Party Men and their Principles.—Propositions 9, 10.
- § VII. Concerning Ministers and their Duty to themselves.—Propositions 11, 12, 13, 14.
- § VIII. Concerning Gratuitous Service and the Profligacy involved in it.—Propositions 15, 16.
- § IX. A Prophecy, and by Burke—The King will swallow up the whole Substance of the People.—Proposition 17.—*See Rose, for the manner how.*
- § X. Gratuitous Service, Burke's Objections to it examined. Necker.—Burke's East India Bill.
- § XI. Burke's Objection to the Application of the Principle of Competition to this Purpose—its Frivolousness.
- § XII. Concluding Observations. Burke, why thus examined.

II. *Defence of Economy against Rose.*

- § I. Introduction.
- § II. Mr. Rose's Pleas in Bar to Economy.—Plea 1. Vastness of the Expenditure.
- § III. Plea 2. Need of Provision for Decayed Nobility, &c.
- § IV. Plea 3. Need of Subsistence for Official Persons.
- § V. Plea 4. Need of Money for making Fortunes for Official Persons and their Families.
- § VI. Plea 5. Need of Money for buying Men off from Professions.
- § VII. Digression concerning the Value of Money.
- § VIII. Plea 6. Need of Money as a Stimulus to Official Exertion.
- § IX. Plea 7. Need of Money for the Support of Official Dignity.
- § X. Plea 8. Concerning the late Mr Pitt's Expenditure :—the Impropriety of Economy how far proved by it.
- § XI. Concerning Influence.
- § XII. Concerning Pecuniary Competition—and the Use made of the Principle.

DEFENCE OF ECONOMY

AGAINST BURKE.

SECTION I.

BURKE'S OBJECTS IN HIS BILL AND SPEECH.

I BEGIN with Mr. Burke: and this, not only because, as compared with that of any living statesman, the authority of a departed one unites the advantages that are afforded to authority of the intellectual kind by *anteriority* and by *death*; but because it seems but natural that, in the delivery of his own opinions, the junior and survivor should have drawn upon his illustrious predecessor, for such assistance, if any, as, in the way of argument, he may have regarded him as standing in need of.

Such, as they will be seen to be, being the notions advanced by the orator—such their extravagance—such their repugnance even to the very measure they are employed to support, what could have been his inducements, what could have been his designs?—questions these, in which, if I do not much deceive myself, the reader will be apt to find at every turn a source of

perplexity in proportion as the positions of the orator present themselves to view, stripped of those brilliant colours, by the splendour of which the wildest extravagances and the most glaring inconsistencies are but too apt to be saved from being seen in their true light.

In the hope of affording to such perplexity what relief it may be susceptible of, I shall begin with stating the solution which the enigma has suggested to my own mind:—showing what, in my view of the ground, was the plan of the orator's campaign—what the considerations by which he was led thus to expose his flanks, laying his principles all the time so widely open to the combined imputations of improbity and extravagance. Here then follows the statement by way of *opening*. On the mind of the intelligent and candid reader, it will make no ultimate impression any farther than as to his feelings, the charge stands in each instance sufficiently supported by the evidence.

Needy as well as ambitious, dependent by all his hopes on a party who beheld in his person the principal part of their intellectual strength, struggling, and with prospects every day increasing, against a ministry whose popularity he saw already in a deep decline, the orator, from this economical scheme of his, *Bill and Speech* together, proposed to himself, on this occasion, two intimately connected though antagonising objects; viz. immediate depression of the force in the hands of the adversary, and at the same time, the eventual preservation and increase of the same force in the hands of the assailants, in the event of success, which on the like occasions, are, by all such besiegers, proposed to themselves, and, according to circumstances, with different degrees of skill and success pursued.

For the more immediate of the two objects, viz. *distress of the enemy*, it was, that the bill itself was provided; and to this object nothing could be more dexterously or happily adapted. Opposition it was certain of: and whatsoever were the event, advantage in some degree was sure. Suppose the opposition completely successful, and the whole plan of retrenchment thrown out together: here would be so much reputation gained to the promoters of the measure, so much reputation lost to the opponents of it. Suppose the plan in any part of it carried, in proportion to the importance of the part so carried, the reputation of its supporters would receive an ulterior increase: while that of its opponents, the weakness betrayed by them increasing in proportion to the conquests thus made upon them, would in the same proportion experience an ulterior decrease.

But as it is with the war of hands so it is with the war of words. No sooner is the conquest effected, than the weakness of the vanquished becomes in no inconsiderable degree the weakness of the conquerors: of the conquerors who from assailants are become possessors. To this eventual weakness an eventual support was to be provided.

To this service was his *speech* directed and adapted: we shall see with what boldness, and—in so far as the simultaneous pursuit of two objects in themselves so incompatible, admitted—with what art.

Such in truth were the two objects thus undertaken to be recommended—recommended at one and the same time—to public favour: a practical measure, (the measure, brought forward by his bill) a measure of practice, and in the same breath a set of *principles* with which, necessary as they were to the main and ulterior purpose, the measure,

so far as it went, was in a state of direct repugnancy.

The problem therefore, with which his ingenuity had to grapple, was—so to order matters as that the economical measure should be pursued, and even if possible carried, with as little prejudice as possible to the necessary anti-economical principles.

Of principles, such as these, which have been submitted to the reader,* of principles really favourable to frugality and public probity, of principles in which waste and corruption would equally have found their condemnation, in whatever hands—in the hands of whatever party—the matter of waste and means of corruption were lodged,—of any such principles the prevalence would, by its whole amount, have been in a proportionable degree unfavourable to the orator's bright and opening prospects. Once in possession of the power he was aiming at, the only principles suitable to his interests, and thence to his views, would be such principles as were most favourable to the conjunct purposes of waste and corruption. So far as was practicable, his aim would therefore be, and was—to preserve for use the principles of waste and corruption in the event of his finding himself in possession of the matter and the means—to preserve them, in undiminished, and, if possible, even in augmented, force.

For this purpose, the only form of argument which the nature of the case left open to him was,

* Of the matter of these principles a portion more or less considerable would probably be found in that part which concerns *Reward*, of the work not long ago (1811) published in French by Mr. Dumont, under the title of *Théorie des Peines et des Recompenses*, from some of the author's unfinished manuscripts.

that of *concession* or admission. Such, accordingly, as will be seen, was the form embraced by him and employed.

By the portion, comparatively minute as it was, of the mass of the matter of waste and corruption, of which his bill offered up the sacrifice, his *frugality* and *probity* were to stand displayed: by the vast, and as far as depended upon his exertions, the infinite mass preserved—preserved by the principles let drop, and as it were unwillingly, and as if wrung from him by conviction in his *speech*, his *candour*, his *moderation*, his *penetration*, his *discernment*, his *wisdom*,—all these virtues were, in full galaxy, to be made manifest to an admiring world.

All this while an argument there was, by which, had there been any lips to urge it, this fine-spun web, with purity at top and corruption at bottom, might have been cut to pieces. If of the precious oil of corruption a widow's cruise full, and that continually drawn upon, be so necessary as you have been persuading us to believe, why, by any such amount as proposed, or by any amount, seek to reduce it?

True; *had there been any lips to urge it.* But, that there were no such lips, was a fact of which he had sufficient reason to be assured: to urge it, probably enough, not so much as a single pair of lips:—to listen to it, most assuredly, not any sufficient number of ears: and where ears to listen and eyes to read are wanting, all the lips in the world to speak with, all the hands in the world to write, would, as was no secret to him, be of no use.

Thus then, by the craft of the rhetorician, were a set of principles completely suited to his purpose—principles by a zealous application of which,

anything in the way in question, howsoever pernicious, might be done—anything however flagrantly pernicious defended—collected together as in a magazine ready for use: a magazine too the key of which was in his own pocket, and with an adequate assurance, that on the part of no enemy whom he and his need care for, would any attempt ever be made to blow it up.

Suppose now the orator seated at the treasury board—the Marquis of Rockingham on the seat of the first Lord, looking great and wise, the orator himself thinking and writing, and speaking, and acting in the character of Secretary. Let him fill his own pockets, and those of his favourites and dependants, ever so rapidly, ever so profusely, no man can ever say to him, *You have belied your principles*; for, as will be seen, so long as there remained in the country so much as a penny that could be taken in a quiet way, his principles were such as would bear him out in taking it.

All this while, honourable gentlemen on the other side might have grumbled, and would of course have grumbled. *Undeserved! undeserved!* would have been the exclamation produced by every penny wasted. But *Well-deserved! well-deserved!* would be the counter-cry all the while: and, the *ayes* being in possession, the *ayes* would have it. *Unprincipled! unprincipled!* would be an interjection, from the utterance of which honourable gentlemen would by their principles—their real principles—their operating principles—not their principles for show—but their principles for use—be on both sides alike (as lawyers say) *estopped*.

As to the principles thus relied upon by the orator, they will be seen to be all of them reducible to this one, viz. that as much of their property,

as by force or fraud or the usual mixture of both, the people can be brought to part with, shall come and continue to be at the disposal of him and his ; —and that, for this purpose, the whole of it shall be and remain a perpetual fund of premiums, for him who on each occasion shall prove himself most expert at the use of those phrases, by which the imaginations of men are fascinated, their passions inflamed, and their judgments bewildered and seduced ; whereupon he, this orator, whose expertness in those arts being really superior to that of any man of his time (to which perhaps might be added of any *other* time) could not but by himself be felt to be so, would in this perpetual *wrestling-match* or *lottery*, call it which you will, possess a fairer chance than could be possessed by any other adventurer, for bearing off some of the capital prizes.

SECTION II.

METHOD HERE PURSUED.

THUS much as to the purpose pursued by the orator in this part of his speech. A few words as to the course and method pursued in the view here given of it.

The passages to which the development of the principles in question stand consigned, are contained, most if not all of them, in that part of the speech which in the edition that lies before me occupies, out of the whole 95 pages, from 62 to part of 68 inclusive. This edition is the third—year in the title page, 1780 ; being the year in which the bill was brought in ; and, as between edition and edition, I know not of any difference.

My object is to present them to the reader in

their genuine shape and colour, stripped of the tinsel and embroidery with which they are covered and disguised.

For this purpose the course that happened to present itself to me was—dividing the text into its successive component and distinguishable parts,—to prefix to each such part a proposition of my own framing, designed to exhibit what to me seemed the true and naked interpretation of it. Next to this interpretation, that the best and only adequate means for forming a correct judgment on the correctness of it, may not in any instance be for a moment wanting to my reader, comes the correspondent passage of the text: viz. that passage in which, as appeared to me, the substance of the interpretation will be found to be more or less explicitly or implicitly contained.

Lastly follow in general a few observations, such as seemed in some way or other conducive to the purpose of illustration, and in particular as contributing, and in some instances by means of extraneous facts, to justify the preceding interpretation, and clear it of any suspicion of incorrectness to which at first view it might seem exposed.

In some instances the truth of the interpretation will, I flatter myself, appear as soon as that portion of the text which immediately follows it has been read through; in other instances, two or three such extracts may require to have been read through, before the truth of the interpretation put upon the first of them has been fully proved; in others again, this or that extraneous fact may to this same purpose seem requisite to be brought to view, as it has been accordingly, together with a few words of explanation or observation, without which the relevancy of the facts in question might not have been altogether manifest.

As to the *order* in which the propositions here succeed one another, should it present itself to the reader, as differing in any respect from that by which a clearer view of the subject might have been exhibited, he will be pleased to recollect, that the order thus given to the effusions of the rhetorician, is the order given to them by himself; and that by their being exhibited in this order of his own choosing, the thread of his argument is delivered unbroken, and the parts of it untransposed.

Having thus before him two sets of principles, one of them in the preceding part suggested by a perfectly obscure, the other, in this present part, laid down by a transcendentally illustrious hand, the reader will take his choice.

SECTION III.

PROPOSITIONS DEDUCED FROM BURKE'S ECONOMY SPEECH.*

1. *Concerning Public Money—What the proper Uses of it. Propositions 1, 2, 3.*

Proposition 1. On condition of employing, upon occasion, in conversation or elsewhere, the word *reward*, in phrases of a complexion such as the following: viz. “furnishing a permanent reward to public service,” † public money ought, at the pleasure of Kings and Ministers, to be habitually

* “Speech on presenting on the 11th of Feb. 1780, A Plan for the better security of the independence of parliament and the economical reformation of the civil and other establishments.” Dodsley, 1780, 3d Edition. The part from which the following extracts are made is contained in pages from 62 to 68 inclusive.

† Page 63.

applied to the purpose of making the fortunes of individuals; and that in such manner as to raise their families to a state of grandeur and opulence.

Proposition 2. To this power of parcelling out the property of the public among the nominees of Kings and Ministers, there ought to be no limit: none to the quantity capable of being thus put into the hands of each nominee; none to the whole quantity of public property thus disposed of.

Proof. "Whoever (says he) seriously considers the excellent argument of Lord Somers in *the Banker's case*, will not he bottom himself upon the very same maxim which I do? and one of his *principal grounds* for the *alienability* of the domains in England, contrary to the maxim of the law in France, he lays in the constitutional policy of *furnishing a reward to public service*; of making that reward the *origin of families*, and the foundation of *wealth* as well as of *honours*."

Then, to the word *England*, comes a note, which says "Before the Statute of Queen Anne, which limited the alienation of land."

Observations.

Proof. At the time of this "excellent argument of Lord Somers," (7th Will. 3.) the whole of this domain was alienable; alienable to the utmost farthing; and, so faithfully and efficiently had it been applied to this its destined, and as we are desired to persuade ourselves, properly destined purpose, as to have brought the subject matter of it to that state, of which a description may be given in the words of the existing Committee on Finance.*

* This was in March, 1810.

“ The right of the crown over its own demesne lands was formerly (say they, 3d Report, p. 127.) as complete as its power of conferring offices ; and yet the use which was made of that part of its prerogative, occasioned Parliament frequently to interpose ; and particularly, after the crown had been greatly impoverished, an act passed whereby all future grants, for any longer term than thirty-one years, were declared void.”

“ The misfortune (continue they) is, as Mr. Justice Blackstone remarks, that the act was made too late, after every valuable possession of the crown had been granted away for ever, or else upon very long leases.”

Such was the observation suggested by the case to Mr. Justice Blackstone ; viz. that “ *it was made too late.*”

But, according to the *excellent argument* of the excellent Lord Somers, it was made *too soon* ; for the use of it,—the “ principal ” use,—at least if the excellent Mr. Burke is to be believed, was, in the conception entertained on the subject by the excellent Lord Somers, the supplying the requisite matter for this “ constitutional policy ” to operate upon ;—viz. “ the constitutional policy of furnishing a permanent reward to public service ; of making that reward the origin of families ; and the foundation of wealth as well as honours.”

Now of this Statute of Queen Anne (as far as it went) the effect was to *counteract* the “ constitutional policy,” and render it together with the excellent “ *maxim* ” on which the excellent law Lord is said to have “ *bottomed himself,*” incapable of being pursued ; and, to a plain and un-law-learned understanding, they cannot both be good, viz. the *policy* and the *statute* : the *policy* by which the alienation of the property in question for that purpose was prescribed, and the *statute* by

which the alienation of that same property, for that or any other purpose, was prohibited.*

Proposition 3. The progress of this revolution ought not to be stopped, till it has received its

* After all, it was not by the “*excellent*” Lord Somers that this profundity of policy was, or, considering the side taken by him, could consistently have been displayed. It was to another “*excellent*” law Lord, though not noble Lord, viz. the Lord Chief Justice *Holt*, that the glory of it should have been ascribed.

“Rewards and punishments” (says he) “are the supporters of all governments:—and for that reason it is that there ought to be a power in all governments to reward persons that deserve well”:†—proof sufficient to the excellent Lord Chief Justice that it was no more than right and fitting, that it should always be, and so long as anything was left, remain in the King’s power, to give away, to any body he pleased, whatsoever part of the people’s money he could contrive to lay his hands on.

“But it is objected” (says the excellent Lord Chief Justice) “that the power in the King of alienating his revenues may be a prejudice to his people, to whom he must recur continually for supplies.” But to this objection, the excellent Chief Justice had his answer ready. “I answer” (says he) “that the law has not such dishonourable thoughts of the King, as to imagine he will do any thing amiss to his people in those things in which he has power so to do.” Reason sufficient with the excellent Chief Justice to trust the King, thus in the lump, with the arbitrary and uncontrolled disposal of men’s properties;—reason not less sufficient might it have been, for trusting the same royal person, on the same terms, with their liberties and their lives. This was *Whig Common Law*. What more could a King have had or wished for, from *Tory Common Law*?

This theory then, which, to the views of our Orator being so convenient, was in the judgment of the Orator so “*excellent*”:—this theory was the theory—not of the excellent Lord Keeper, but of the excellent Lord Chief Justice. Not that by this mistake of John for Thomas any very material injustice was done to the excellent Lord Keeper; for, in this instance, if anything was wanting in *theory* (not that any such deficiency appears) it was made up in *practice*.

To the profits of the office—those profits, for an eventual supplement to which even Lord Eldon required, or at least obtained, not more than a floating 4,000*l.* a year, these profits

† Modern Reports, Vol. 5, pp. 54, 55. 7 Will. 3d. The Banker’s case.

§ III. *Deductions from Burke's Speech.* 25

consummation as above described, i. e. so long as any part of the property of the public (understand

not being sufficient for "*making reward the origin of that family;*" for affording to it a sufficiently broad "*foundation of wealth as well as of honours,*" a pension for life of 4,000*l.* a year was added: 4,000*l.* a year *then* equal at least to 12,000*l.* a year *now*. This, as not being in fee, being still insufficient, an estate,* which *was* and *is* in fee, was added: an estate which according to his own admission and valuation made for the purpose, was producing at that time no more than a poor 2,100*l.* a year, if the statement thus given in general terms by the learned and noble grantee for the purpose of his defence against an impeachment is to be taken for correct: how much at present is best known to some noble or not noble proprietor or other, related or not related, into whose hands it has passed.

But this 4,000*l.* a year, and this 2,100*l.* a year and this 12,000*l.* a year more or less, these et cæteras, were they, any of them, ever *begged* for by the excellent Lord? Oh no: so he himself expressly assures us:—*begged* for, no more than the Teller-ship was *begged* for by Mr. Yorke. These are of the number of those gracious designs, which till the very moment of their taking effect, are never known of. While the eyes of the Right Honourable person are, as usual, fixt on heaven, the grant is slipped into his pocket, and when, putting in his hand by accident, he feels it there, his astonishment is not inferior to his gratitude.†

Note that for no such expence as this, in so rare an article as wisdom, was there any the smallest need. In the time of Charles the 2nd (the Bank of England not as yet born or thought of) money to the amount of "above a million" (a vast sum in those days) part their own, part that of their *customers*, having been lent to the King by a set of *bankers*,

* The Manor or Manors of *Rygate* and *Howleigh*, which according to the Tory House of Commons were at that time worth *upwards* of 12,000*l.* but according to the noble and excellent defendant "far short" of that "value:" though how far short he was not pleased to say: also divers other good gifts the amount of which became the matter of so many disputes, which, the impeachment of the excellent Lord not having come to a trial, was never settled.—V. State Trials, Vol. 5, pp. 350, 351, 352.

† Of the relative quantity of the slice thus taken, relation being had to the quantity left, some conception may be formed from a note of Mr. Rose's in his "*Observations respecting the public expenditure and the influence of the crown.*" 2nd Edition, 1810. "In 15 years, to 1715, the whole income from crown lands (says he) including rents, fines, and grants of all sorts, was 22,624*l.* equal to 1,500*l.* a year."—Journals of H. C. Vol. XX. p. 520.

of the people) remains unapplied to the purpose of giving effect to this “maxim” with its “con-

was by him the said King converted to his own use: in court English, “*the Exchequer was shut up.*”

In a succeeding reign, viz. that of King William, the question was, whether there was power in the crown, sufficient for applying a particular branch of its revenues in part restitution of the profit of this robbery. Yes, says this Lord Chief Justice: for the branch in question (a new one—a portion of the Excise) was given to the King in exchange for an old branch, viz. the branch called “*wards and liveries.*” Whoever has an estate *in fee* may alienate it; in the “*wards and liveries*” the King had an estate in fee! the Excise was by Act of Parliament given to him in lieu of those “*wards and liveries:*” and what is more, by the express words of the act, he was and is empowered to alien it. This, supposing the construction put upon the act not inconsistent with the words of it, might, one should have thought, have sufficed for argument. But this would not have sufficed to shew the learned Lord’s acquaintance as above with the depths of policy: nor yet the “*honourable thoughts*” entertained of the King by the law:—and so, *ex abundantia* the sage reasons that have been seen, were added.

Whatsoever money the King could contrive to lay his hands upon, *that* the virtuous Whig Chief Justice was content to see him waste. Why? For this plain reason: because “the law has not”—(i. e. he, his predecessors and colleagues had not) any such dishonourable thoughts of the King “as to imagine he will do anything amiss to his people in those things in which he has power so to do.”

And what was the incident that called forth their effusion of faith and confidence? It was that of a King having robbed his subjects: robbed them of so much money—and for what? to hire men with, for robbing in conjunction with their enemies*—for robbing and murdering their allies.†

Now therefore in my humble conception of the matter, whosoever it was that went *thus far*, whether it was the excellent Lord Keeper, whether it was the virtuous and intrepid Whig Chief Justice went so far, it is no very easy matter to imagine how the learned colleagues of the Chief Justice, or any of them, should (as Edmund Burke says they did) “go further:” and that for any imaginable set of existing circumstances, for any imaginable purpose of *accommodation, convenience, reward of merit, reward of eminent services*, and so

* The French.

† The Dutch.

stitutional policy ;" viz. " the furnishing a permanent reward to public service : of making that reward the origin of families, and the foundation of wealth as well as honours."

Proof. (Observations.) For, already, at the time of this excellent argument, had this quiet and gradual revolution made such progress, that within a trifle, the domain in question,—a mass of property originally sufficient for the peace establishment of the country—had been thus disposed of.

forth—not to speak of reasonable, useful, and honest purposes,—it went far enough of all conscience.

Of these " honourable thoughts " one effect was to reduce to such a state of debility the learned thinker's learned imagination, as to disable it from representing to him as *possible*, a state of things which his memory, if consulted upon the occasion, could not but have represented to him as realized, and that no more than seven years before : that state of things expressed—the half of it by the lawyer's word *abdication*, the whole of it by the people's word *revolution*, but for which (I mean the revolution) his master could not have been a King, nor himself a Lord Chief Justice. This master of his was now King : and now, whatsoever power the King has, is become incapable of being used amiss ; misuse being in such hands either the same thing as use, or (what comes to the same thing) converted into use.

This is the way the sort of a thing called common law is made. Not content with exercising the *power* which he *has*, nothing will serve a man but he must display the *wisdom* which he has *not* : he bewilders himself and raves : and his ravings as often as it happens to them to suit the interest or the humour of those that come after him, these ravings of his become law.

Principles and practice together, nothing could be better matched : practice found by the excellent Lord Keeper, principles by the excellent Lord Chief Justice.

Note that while lawyers as well as favourites were thus fattening (for the reign of William, though a reign of salvation for England and for Europe, was a reign of waste and favouritism) the state, for want of common necessities, was continually on the brink of ruin : expense unprecedented, ways and means scanty, deficiencies abundant, losses distressing, credit at death's door.

There remained, it is true, and still remains, in part at least as yet undisposed of in the same constitutional way, the private property of individuals.

But a principle adequate to this purpose, had already been established—established by the same or another provident set of hands—and, at the time of this excellent oration still continued to be acted upon; yes, and still continues to be acted upon, under the eye and cognizance, and without censure from the above mentioned existing committee, by which a diamond from this same excellent oration has, without acknowledgment, been picked out,—picked out and employed in giving additional lustre to the jewel for which we are indebted to their hands.*

* Burke, p. 62, in the paragraph immediately preceding the one above quoted:—"I know, too, that it will be demanded of me how it comes, that since I admit these offices" (sinécures) "to be no better than pensions, I chose, after the principle of law had been satisfied," (meaning the principle, with how little propriety soever it can be termed a principle of law, the principle of policy and humanity, that forbids the abolition of them, though it be by the legislature, to the prejudice of existing rights of property, i. e. without adequate compensation) "I chose to retain them at all." This being the question, now reader, whether you have, or have not, read Part I. of this Tract, Chapter 3, *On Sinécures*, be pleased to observe the answer—"To this, Sir, I answer, that conceiving it to be a fundamental part of the constitution of this country, and of the reason of state in every country, that there must be means of rewarding public service, these means will be incomplete, and indeed wholly insufficient for that purpose, if there should be no further reward for that service than the daily wages it receives during the pleasure of the Crown."

Thus far Edmund Burke: and thus far, and without inverted commas, or any other token of adoption, the existing Committee on Finance, (3rd Report, p. 126) substituting only for the words—"To this, Sir, I answer, that conceiving" the words "at the same time regarding."

Here we see what, according to the logic of the rhetorician, constitutes a sufficient reason why the quantity of annual

SECTION IV.

CONCERNING TITLE TO REWARD.

Proposition 4.

IN the course of the disposition thus made of the whole property of Government, with the growing

emolument in question should not be put into the shape of *pension*, but be continued in the shape of *Sinecure*. And this is the flourish which, with the question between *Sinecures* and *Pensions* before their eyes, the Committee copy: and though like the Orator in the way of *concession*, exhibit not the less in the character of a "fundamental part of the constitution of this country."

This principle consists in the *habit*, which under common law, is the same thing as the *power*, of creating *offices*, with fees annexed to the same, and receivable by the officers successively invested with the same: of creating these fee-gathering offices, or what comes to the same thing, annexing more and more fees to offices of this sort already created; fees, that as *taxes*, are exacted by the sole authority of some official person or persons, without allowance, special or general, from the representatives of the people in Parliament.

This principle may be seen flourishing to this day, and with unabated vigour; for so long as the word *tax* is not mentioned, and instead of a contribution to a *tax*, the money levied is called a *fee*, and instead of the pocket of the public, the pocket it goes into is that of the imposer, and the assembly in the composition of which the people have some share have no share in the imposition of it, nothing can exceed the acquiescence and complacency with which the good people of this country, as well as its Parliament, are content to view it; especially when the tax thus imposed, is imposed upon that class of the community which is composed of the distressed members of all the other classes, and by so fast a friend to the rights of the people and to *liberty*, and to *Juries*, and to the laws which forbid the *levying money* upon the people without consent of Parliament, and to the *Magna Charta* which forbids the *delaying of justice*, and to the *Magna Charta* which forbids the *sale of justice*, and to the *Magna Charta* which forbids the *denial of justice* (whether by putting a price upon it beyond what they have to give, or otherwise) as the Noble Ex-Chancellor, then Chancellor, legislating with the advice and consent of his Right Honourable Subordinate,

addition of the whole property of the people, the plea of its having for its use and object the furnishing a reward to

whose experience in equity business found such a contrast to that of the Common-Law-Learned Novice.*

* No. I. List of Law Sinecures, granted in *fee*, with the masses of *emolument* respectively attached to them: gleaned and put together from the Reports of the Finance Committee of the years 1797-8 and 1807-8: distinguishing as well the different descriptions of the Offices and Officers in question, as the different masses of emolument respectively received at the two different periods, as exhibited by the two committees: with references to the Nos. of the Appendixes and Pages of the two Reports; the Reports being—of those of the committee of 1797-8, the 29th, and of those of the committee of 1807-8, the 3d.

1797-8 No. Page	1807-8 No. Page	Description as per 1797-8.	Description as per 1807-8.	Annual Sums received as per 1797-8 1807-8	
		(1) I. COURT OF CHANCERY.		£	£
1 K. 7 84,5	72 280	1. Keeper or Clerk of His Majesty's Hanaper in Chancery, Earl of Northington, and his heirs, during the lives of (see next column.)	1. Hanaper, Clerk of; sisters and co-heiresses of the Earl of Northington.	1,811 <i>a</i>	2,070
2 K. 3 a K. 3 b 62-3		(2) 2. Register of the Court of Chancery, Duke of St. Albans, or Drummond, his Mortgagee, (see Vezey, Jun. V. 433.)	2. No mention.	640	
		(3) II. COURT OF KING'S BENCH.			
3 L. 16 160-1	72 180	3. Comptroller of the Seals of the Courts of King's Bench and Common Pleas, his Grace the Duke of Grafton.	2. Seal Office of King's Bench and Common Pleas, Duke of Grafton.	400	2,886
		(4) III. COURT OF COMMON PLEAS.			
4 M 14 190-1	72 281	4. Hereditary Chief Proclamator, J. Walker Heneage.	4. Chief Proclamator, Arabella Walker Heneage, Widow.	100	100
5 M. 1 172-3	72 281	5. Custos Brevium, C. P. Honourable Lady Louisa Browning, one-eighth; Hon. Lady Robert Eden, one-sixth; John Hankin, Esq. Tenant by the Curtesy, one-third; Edward Gore, Esq. in right of his Wife, Lady Mostyn, one-third.	5. Custos Brevium, Honourable Louisa Browning, Sir Fr. M. Eden, Lady B. Mostyn, Joseph Hankin.	455	929
		(6) IV. COURT OF EXCHEQUER.			
6 N. 29 238-9	72 281	6. Hereditary Chief Usher of the Exchequer, with the Appurtenances thereof, John Walker Heneage.	6. "Chief Usher, Arabella Walker Heneage, in fee, under Grant from Henry II. as well as the other office."	133 &c. <i>b</i>	137

Reference to the Reports of the Finance Committees.

- No. (1) 1797-8, K. 7. p. 84,85—1807-8. No. 72. p. 280.
 No. (2) 1797-8, K. 3 a, K. 3 b, p. 62, 63—1807-8. No mention.
 No. (3) 1797-8, L. 16. p. 160, 161—1807-8. No. 72. p. 280.
 No. (4) 1797-8, M. 14. p. 190, 191—1807-8. No. 72. p. 281.
 No. (5) 1797-8, M. 1. p. 172, 173—1807-8. No. 72. p. 281.
 No. (6) 1797-8, N. 29. p. 238, 239—1807-8. No. 72, p. 281.

a Gross 1994*l*. The beneficial interest is not in fee: the reversion was granted to a pair of Thurlows in June 1792.—27th Finance Report, 1797-8. p. 84.

b "Viz. an ancient allowance of 5*d*. a day, (called *diet money*) during the time the Court is open, which is uncertain."—27th Finance Report, 1797-8, N. 20 (a) p. 238.

public service, ought never to be any other than a false pretence: at any rate nothing ought ever to be done to prevent its being so.

Thus, from this Table, it appears, that of the four great Westminster Hall Courts, there is not one in which the principle of taking the property of the distressed to make fortunes for Court favourites, or, in the Orator's language, to "*make it the origin of families and the foundation of wealth and honours*," was not applied,—not one in which the application of it is not to this very day continued. A natural question here is—how in so great a length of time it comes to have made so small a progress? The answer is—that in the hands of the King, this mine having, soon after its discovery, been worked too openly and too rapidly, the consequence was, that the thus working of it received the check we hear so much of, and care so little about; and that from that time it was given up to those useful servants of his, whose professional dexterity was now become necessary to enable a man, when working under the Rose, to make a living profit out of it.

The earliest instance, of which any effect or memory is now remaining is, as the Table shows, of as early a date as the reign of *Henry the Second*. Soon after him came *King John*, whom, besides his *Magna Charta*, so many details that have come down to us on record prove to have kept an open shop for the sale of the commodity which went by the name of *justice*, and in which the prices were not *then* in any sort, as *at present* they are in some sort, fixed. In *King John's* reign comes this *Magna Charta*, and thenceforward, so far as concerned the sort of "*public service*" rendered by the *Gavestons*, the *Spencers*, and the *Mortimers*, this source of "*permanent reward to public service*" was nearly dried up; and for what few drops have here and there been collected by the successors of those accomplished Gentlemen, they have been forced to enter into a sort of partnership with the Gentlemen of the Long Robe.

Had it not been for the obstruction just mentioned, the present amount of that part of the produce of the *stamp duties* which is levied upon those who are distressed whether by or for want of the commodity sold under the name of *justice*, would have composed but a part, and that a small one, of that part of public money which would have followed the fate of the Crown Lands, under and by virtue of the principle thus maintained by Holt and fattened upon by Somers.

Proof. (Observations.) Four modes of disposing of the public money, under the notion of re-

I say, but a small part: for had the mine continued in individual hands, with the power and capital of the King openly employed, as under King John, in backing them, it would have continued to be worked with that zeal and consequent success, by which labour in private is, so much to its advantage, distinguished from labour on public account: and supposing any remnants of it, as of the Crown Lands, to be still remaining, the Percevals of the present day, instead of being occupied in the augmentation of those taxes on distress for the benefit of rich and poor together, defending inch by inch, and not always without loss, those parts of the produce which stand appropriated to the enrichment of the rich, would have been exclusively employed in the more agreeable occupation of giving additional breadth to "*the foundation of wealth as well as honours*" upon the plan here sketched out by Edmund Burke, and with as little reserve or mystery as was found necessary by King John, in the halcyon part of his days.

In the Court of Chancery there exists a set of men called from their number *the sixty clerks*, whose situation is something compounded of or intermediate between, that of an *officer of the court* and that of an *attorney*.

They are *officers of the court*, inasmuch as, through an intermediate nomination, they are nominated by a subordinate judge of the court (the Master of the Rolls) and inasmuch as in every cause the parties on each side are obliged to employ one or other of them; they are *attornies*, inasmuch as they are *agents* of the *parties*, and, on each side of a cause, the party or parties, through the medium of their respective attorneys, (called here solicitors) have their choice which of them to employ.

In the same court there exists another set of men called the *six clerks*, whose situation seems to be purely that of an officer of the court. To each of these *six clerks* belongs the nomination of *ten* out of the *sixty clerks*; which nominations he either sells or gives, which ever mode of disposition happens in each instance to be most for his advantage.*

Of these six clerks, the nomination belongs to the Master of the Rolls for the time being: which nomination, like the Lord Chancellor and Chief Justices of the King's Bench and Common Pleas, he in like manner either sells or gives, accord-

* Harrison's Chancery, I. 61. Ord. Can. 83.

ward for public service—extraordinary public service—all of them in frequent use—lay open to the rhetorician's view. 1. Remuneration by *Act of Parliament*. 2. Allowance out of *secret service money*. 3. *Pensions* granted by the Crown *without concurrence of parliament*. 4. *Sinecure offices* granted by the Crown *without concurrence of parliament*.

In the case of Remuneration by act of Parliament, every thing is open to *view*; every thing is open to *discussion*; 1. The nature and *reality* of the *service* supposed to have been performed. 2. The *part taken by the person* in question in the

ing to the mode of disposition, that happens to be most to his advantage.

The greater the annual value of a *sixty clerk's* place, the greater the value of the place of a *six clerk* who has the gift or sale of it. The greater the value of a *six clerk's* place, the greater the emolument of the place of the Master of the Rolls who has the gift or sale of it.

By order of the Court of Chancery, dated 26th February, 1807, signed by the Lord Chancellor, *Lord Erskine*, and by the Master of the Rolls, *Sir William Grant*, by whose advice and assistance he states himself as acting therein, a new "*schedule of fees*," is established and authorized to be taken by each one of those sixty clerks:—fees described in so many articles, 43 in number, and the amount avowedly increased in the instance of each article.

A prior instance had been found in which in like manner, viz. by a law enacted in the same way by the joint authority of the two judges, bearing the same offices, money had in this way, about the middle of last century, been levied upon those children of distress called *suitors* without consent of parliament. Coupled with *power*, *sinister interest* begets *precedent*, and *precedent* begets, or rather *precedent is law*.

Of the two modes in which, without consent or privity of parliament, law is made by the sole authority of the King's nominees in the character of *judges*, this (it must however be confessed) is beyond comparison the least mischievous; it not involving, as the other does, the attribute of uncognoscibility, and the tyranny of an *ex post facto* law.

rendering of that service. 3. The *importance* of the *whole* service and of the *part* taken by him in the rendering it. 4. The *magnitude* of the proposed *reward*.

In the case of remuneration out of *secret service money*, all these particulars are left in darkness; and in time of *war*, and thence at all *other* times (since there are none in which the approach or danger of war may not be imminent) it being necessary that in the hands of the administration there should exist means of purchasing services, such as under any apprehension of disclosure would be unobtainable: hence a fund for this purpose ever has been, and ever ought to be, on foot.

In the case of *pensions*, some of the above four particulars are open to *discussion*: two of them, and two only, *are* open to view; viz. 1. The *person on whom* so much of that matter, viz. *Money*, which is in use to be applied, and in this case is applied, to the purpose of remuneration, has been bestowed. 2. The *quantity* of that matter thus *bestowed*. What is *not* open to view is whether it is under the *notion* of his having rendered *any* public service, that the money has been bestowed; much less whether such notion, supposing it really entertained, be in any degree *just* or no.

4. In the case of *Sinecures*, he saw all these helps to misapplication having place, and as compared with the case of *pensions*, acting in much greater *force*. In the case of a pension, what is bestowed constitutes a new article, put upon an already existing list: a list, which if not already public, is liable to become so at any time;—a list, which in the mean time, whether made known or not to the *public*, cannot but be kept constantly in view by various members of administration, if it were only lest the fund on which it is settled should be over-

loaded ;—a list such, that no fresh article can ever be placed on it, without producing a fresh *sensation*, as constituting a manifest addition to the mass of public burthens ; and in relation to which it is impossible, but that to many persons the question must occur—on what *grounds*, and with what *propriety*, has this addition been made ?

In the case of sinecures, not one of these spurs to attention had, in *his* view, any more than they have at present, any existence. Sinecure list, none : no, nor so much as a future possibility of making out any such thing, without a course of intricate inquiry, such as even now, in the fourth year of the sitting of a second Finance Committee, has not been completed. A sinecure office falling vacant, the vacancy is in case of this inefficient, as in the case of any efficient sort of office, filled up in course ; filled up under no other impression than the general one, viz. that in the list of offices, as often as one name drops out, another must according to usage be put in the room of it.

In two different situations, he saw the same set of hands, viz. those of the servants of the Crown, habitually employed in disposing of the property of the public, whether to the purpose, real or supposed, of remuneration, or to any other purpose. In two different situations, viz. out of parliament and in parliament ; in parliament, since without their concurrence, even in parliament, no such power can under the established rules be exercised. Of this difference, what is now, what in *his* view could have been, the consequence ? Disposed of *in* parliament, the money had never been disposed of, but that to the misapplication of it there had been *some* check, though how far from being so effectual a one as might be wished, is but too notorious. Disposed of, *out of* parliament, as

in the shape of a sinecure emolument, the misapplication of it had never experienced, nor in the nature of the case was capable of experiencing, any check whatever. It is in this shape that we see him defending it.

Of this state of things, the consequence was and is as obvious and natural as the existence of it is incontestable. When, at the expense of the people, on the ground of service rendered to the people, a case can, it is supposed, be made, be it ever so weak a one, recourse is had to parliament, and parliament is the hand by which the favour is bestowed. When no such case can be made—when the very mention of public service might be regarded as mockery and insult, when the annihilation of the precious matter thus bestowed would be a public blessing, a secret hand acting out of parliament, is the hand occupied in such service: windfalls are waited for, Tellerships are bestowed.

Whatever you want in force of *reason*, make up in force of *assertion*. Whatever is wanting in *merit*, make up in *eulogy*. Maxims these the use and value of which are perfectly understood by sophists of all classes.

Our Rhetorician goes on. “*It is indeed*” (meaning by *it* the principle which prescribes the dividing the substance of the people among great families, and families that are to be made great by such means) “it is indeed the only genuine, unadulterated origin of nobility.” Peculation the only genuine and unadulterated origin of nobility! What a character of nobility! What a plea for the House of Lords! What a lesson to the people!

“It is” (continues he) “a great principle in Government; a principle at the very foundation of the whole structure.” O yes, such a principle

exactly as a running stream would be, running under the foundation of a structure erected on a quicksand.

SECTION V.

CONCERNING VIRTUOUS AMBITION, GRATITUDE,
AND PIETY.

Propositions 5, 6, 7, 8.

Proposition 5. WHEN ambition is virtuous, nothing but money is capable of acting with effect as an incitement to it; power in whatever shape—power of management—power of patronage; dignities, honours, reputation—respect, by whatever cause created, are all without effect.

Proof. “Indeed no man knows” (continues the rhetorician) “no man knows when he cuts off *the* incitements” (“*the* incitements,” i. e. the sole incitements) “to a virtuous ambition, and the just rewards of public service, what infinite mischief he may do his country through all generations. Such saving to the public may be the worst mode of robbing it.”

“The incitements;” meaning those alone which are composed of money. For thereupon comes a panegyric on the virtue of money; an eulogium composed of a string of phrases, which in the common-place book of a university poem-maker, might, if the subject of the poem were the virtues of money, perform the sort of service performed to genius in the bud in that useful manual called the *Gradus ad Parnassum*, under the head of *synonyms* or *phrases*.

“The means for the repose of public labour”—
“The fixed settlement of acknowledged merit”—
“A harbour into which the weather-beaten vessels

of the state ought to come; a retreat from the malice of rivals, from the perfidy of political friends, and the inconstancy of the people."

How pitiable under this view of it, must be the condition of every man, who without a certainty of raising a family into overgrown opulence at the expense of the people, employs his time, or any part of it, in any branch, at least in any of the higher branches, of the public service!—of every member of parliament, at least (for to honourable gentlemen of this description do the regards of the rhetorician appear on this occasion to have confined themselves) of every member of parliament who ventures his bark in any such stormy latitude, without the certainty of a "harbour" in the shape of an auditorship, or a cut-down Tellership at least!

Storms and tempests forsooth! Yes, such as we see on canvas at Covent Garden, and hope to see again at Drury Lane. Labour as severe almost as what is undergone on the Cricket Ground, or at the Card Table, and standing about as much in need of remuneration at the expense of the people: labour such as, without receiving the value of a farthing from any hand that did not itself cheerfully take the money out of its own pocket, *Mr. Gale Jones* and his company would have undergone, and continued to undergo, if the Honourable House could have prevailed upon itself to suffer them: labour far short of that which on the same ocean the newspaper reporters were in the habit of undergoing, and if *Mr. Yorke* and his honourable and worthy nephew had suffered them, would have continued to undergo, without ceasing: and even (how "incomplete" soever, "and indeed wholly insufficient for that purpose;" "for that public service must" (as *Mr. Burke* says) "be those

means of rewarding" that "public service") yes, even without "further reward for that service than the daily wages received during pleasure:—daily labour beyond comparison more compulsory, more assiduous, more severe, than that which, besides so many contingent sweets, has present honour for a sweetening to it;—daily labour without pension of retreat, without provision for superannuation; provision, actual or eventual, for widows or mistresses, children or grandchildren, uncles or aunts, brothers or sisters, nephews or nieces; without power either of management or patronage, without either possession or prospect of honour, dignity, reputation or respect in any shape.

Proposition 6. So as the place be permanent, the hope of receiving it, how large soever the mass of emolument attached to it, "*does not operate as corruption*"—does not produce "*dependence.*"

Proof. "Many of the persons who in all times have filled the Great Offices of State, have" (says he) "been younger brothers, who had originally little, if any fortune. There ought to be" (continues he) "some power in the Crown of granting pensions out of the reach of its own caprices."—Caprices! The hand by which the whole property of the people is thus to be disposed of, has it then its caprices? O yes, for the moment, and for the purpose of the argument. What is it that it may not happen to a thing to *have* or *not have*, for the purpose of the argument? "The intail of dependence" (continues he) "is a bad reward of merit."

"I would therefore leave to the Crown," says he (viz. to the "*caprices*" of the Crown) "the possibility of conferring some favours, which, whilst they are received as a reward, *do not operate as corruption*;—as if, to this purpose, call it

good, call it a bad one, a pension might not be made to operate with the same effect as a sinecure, both being equally for life.

Proposition 7. When a man is in parliament, whatsoever be the conduct of the servants of the Crown, and whatsoever be the quantity of money he may gain or hope to gain by giving them his indiscriminating support, virtue requires that, to protect him against the charge of corruption, he be provided with the plea of *gratitude*; which plea pleaded, acquittal follows of course.

“When men receive obligations from the Crown through the pious hands of a father, or of connections as venerable as the paternal, the dependencies” (says he) “which arise from them are the obligations of gratitude, and not the fetters of servility. Such ties” (continues he) “originate in virtue, and they promote it.”

Proposition 8. When a man happens to have children, “piety” on his part consists in filling their pockets with public money.

Proof. The epithet “pious” applied with so much unction to paternal hands thus occupied.

Observations. In the Wolf’s Bible, piety would indeed naturally enough consist in providing lamb, as much as she could lay her paws upon, to feed her cubs with. But in the Shepherd’s Bible, at least the Good Shepherd’s Bible, piety will probably be found rather to consist in keeping the lambs from being disposed of to such pious uses. The orator, though not a no-popery-man, was fond of his Bible, and here we have a sample of the uses he was fond of making of it.

SECTION VI.

CONCERNING PARTY-MEN AND THEIR PRINCIPLES.

Propositions 9, 10.

Proposition 9. MEN, who have at any time joined together in the way of party, ought not ever, any one of them, to differ from any other; nor therefore to act, any one of them, according to his own conception of what is right. Sinecures, if not absolutely necessary, are highly conducive at least, and thence proportionally useful, to the purpose of preventing all such differences.

Proof. "They" ("such ties" as above) "continue men" (says he) "in those habitudes of friendship, those political connections, and those political principles" (we have seen what principle) "in which they began life. They are antidotes against a corrupt levity, instead of causes of it."

Observations. Sinecures, according to this account of them, seem to be as necessary to secure fidelity at the expense of sincerity in parliament, as *test oaths* and subscriptions are to secure various good things, at the expense of reason or sincerity there and elsewhere.

Two things here call for notice, the proposed *end* and the proposed *means*. Proposed *end*, each man's persevering in the *principles* (whatever is meant by *principles*) in the professions and habits, right or wrong, in which he "*began life*;" i. e. which it happened to him to have imbibed from the instructors under whom it had happened to him to be placed, and the society in which it had happened to him to have lived. Proposed *means*;

his having got into his hands as much public money as his parents and other connections could contrive to put into them by means of sinecures. *Means* and *end*, it must be acknowledged, are not ill matched.

Proposition 10. On a change of Ministry, were it not for the sinecures, the *comers-in* would cut the throats of the *goers-out*; whereupon “the *sons*” of the *goers-out* would “*cringe*” to the same *comers-in* (now ins) and “*kiss their hands*.”

Proof. “What an unseemly spectacle would it afford, what a disgrace would it be to the commonwealth that suffered such things, to see the *hopeful son of a meritorious minister* begging his bread at the door of that treasury from whence his father dispensed the happiness and glory of his country? Why should he be *obliged to prostrate his honour, and to submit his principles* at the levee of some *proud favourite*, shouldered and thrust aside by every impudent pretender, in the very spot where a few days before he saw himself adored?—*obliged to cringe* to the author of the calamities of his house, and to *kiss the hands* that are *red* with his father’s blood? No, Sir;—these things are unfit, they are intolerable.”

Observations. And so there are, it seems, such things as proud favourites. But if so, what sort of food is their pride fed upon? Sinecures? And if so, is not one of these *proud favourites* on every occasion a dangerous rival to the *hopeful son of a meritorious minister*? But the plan was—that there should be enough of them for every body: and thus every thing would be as it should be.

SECTION VII.

CONCERNING MINISTERS AND THEIR DUTY TO
THEMSELVES.

Propositions 11, 12, 13, 14.

Proposition 11. THE danger of a man's being too bountiful to himself, when, in and by the adjudication of reward claimed on the ground of service said to have been rendered to the public, he is allowed to be judge in his own cause, affords no reason, at least no conclusive reason, against the allowing him to act in that character.

"As to abuse," (says he) "I am convinced, that very few trusts in the ordinary course of administration, have admitted less abuse than this. *Efficient ministers have been their own paymasters.* It is true. *But their very partiality has operated as a kind of justice;* and still it was service that was paid. When we look over this Exchequer List, we find it filled with the descendants of the Walpoles, of the Pelhams, of the Townsends, names to whom this country owes its liberties and to whom his Majesty owes his Crown.* It was in one of those lines that the immense and envied employment he now holds, came to a certain Duke," ("the Duke of Newcastle," says a note) "whose dining room is under the House of Commons, who is now probably sitting quietly at

* Their co-operation within doors by hundreds, and without doors by millions, he would have us believe, having had no share in the business, or at least no merit in it. These men stand up in a room (*absit verbo invidia*) and pronounce a set of phrases, and by these men alone (we are desired to believe) by these men alone it is, that every thing that is done, is done.

a very good dinner directly under us, and acting *high life below stairs*, whilst we his masters are filling our mouths with unsubstantial sounds, and talking of hungry economy over his head."

For merited wealth and honour he declares his "*respect*:" "*respect*" which accompanies it "through all its descents, through all its transfers, and all its assignments." In plain English, the object of his respect is wealth itself, whatever hands he sees it in. As for "*original title*," and "*first purchase*," and the epithet "*merited*" prefixed to "*wealth*," all this is for decency and delusion. For as to *merited*, the orator's notion about merits have surely by this time become sufficiently apparent.

And as to *title*, what is it that on the subject of title, specific title, so much as asserted, not to speak of proved, he ever drops so much as a hint of his looking upon as requisite? No: with him, to the purpose of approbation, though without reason, as in a lawyer's point of view, to the purpose of protection, for the best reason, possession of wealth, acquired at the public expense, is regarded as proof of title: and that proof not only presumptive and provisional, but conclusive.

As for *transfer* and *assignment*—*wealth* sure enough is *transferable* and *assignable*. But *merit*? is *merit* too a subject of bargain and sale? A manor? yes. But *manners*, those "*manners*" which, in the language of *Edward the Third's* chancellor "*maketh man*," are these manners with an *e*, appendages and appurtenances that by the attraction of cohesion adhere to, and are rendered inseparable from, the manors with an *o*?

Wealth or power, wherever you see them, "*prostrate*" yourself before them: "*cringe to*" them, and though they be "*red with*" your "*fa-*

ther's blood," "*kiss the hands*" that grasp them. This is what you are "*obliged*" to do: and that which is matter of obligation, how can it be matter of blame? Such are the precepts which call for the observance of that pupil whose preceptor is Edmund Burke.

After the predilection he thus declared, predilection for *vicarious reward*, in short for any thing that can afford to political rapacity a colour or a cloak, to complete the system of corruption and tyranny, what more can be wanting than a like declaration in favour of *vicarious punishment*?

Observations. "But" (continues the orator) "he is the elder branch of an ancient and decayed house, joined to, and repaired by the reward of services done by another." Thus far the orator.

"*Done by another.*" Yes, done by George the Second's old favourite the minister Duke of Newcastle, whose culinary profusion and political inaptitude were alike proverbial, whose inefficiency the efficiency of the first Pitt had for such a length of time to struggle with, and whose services consisted in the sacrifice made of his patrimony to his palate and his pride.

"I respect" (continues the rhetorician) "the original title, and the first purchase of merited wealth and honour through all its descents, through all its transfers, and all its assignments. May such fountains never be dried up! May they ever flow with their original purity, and fructify the commonwealth for ages."

May such fountains never be dried up! exclaims the ejaculation, poured forth with fervency, with almost the solemnity, and with at least the sincerity, of a prayer. "*May such fountains never be dried up.*" As if he had not all this while in full view a fountain of this sort, the patrimony of the

Crown, all but dried up, and that almost a century before the utterance of this prayer : as if any thing could operate more speedily, or more effectually, towards the drying up of all such fountains, than the acting up to those laws of profusion to the keeping of which it was the object of this prayer to incline men's hearts.

Proposition 12. If it be admitted that the masses of emolument, respectively attached to the great *efficient* offices, are not excessive, this admission will be sufficient to justify the possessors of them in putting into their pockets additional masses of emolument to an unlimited amount, on condition of creating or keeping on foot *inefficient* offices, to which such additional masses of emolument shall respectively stand attached.

Proof. "If I were to give judgment" (says he) "with regard to this country, I do not think the great offices of the state to be overpaid. When the proportion between reward and service" (resumes he) "is our object, we must always consider of what nature the service is, and what sort of men they are, who are to perform it. What is just payment for one kind of labour, and full encouragement for one kind of talents, is fraud and discouragement to others."

Observations. True enough. But what is it to the purpose? and what is it that it amounts to? and what is it that by volumes of phrases thus floating in the air would be proved?

"*Not overpaid.*" For the purpose of the argument let it pass.

"*Not overpaid!*" Admitted. But does it follow that they are *underpaid*? 4,000*l.* a year, or 6,000*l.* a year not excessive? Good: but does it follow that 23,000*l.* a year, or that 38,000*l.* a year must be added?

Proposition 13. To justify the leaving to the possessors of public offices, in an unlimited number, the power of putting each into his own pocket, and into the pockets of his relatives, and friends, and dependents, and their respective descendants, such supplemental masses of emolument, each to an unlimited amount, it is sufficient to point out one office and *one class* of offices, which present a reasonable claim to larger masses of emolument than what are attached to the rest.

Proof. "Many of the great officers have much duty to do, and much expense to maintain."

"A Secretary of State, for instance, must not appear sordid in the eyes of Ministers of other nations.

"Neither ought our Ministers abroad to appear contemptible in the Courts where they reside."

"In all offices of duty" (continues he) "there is almost necessarily a great neglect of all domestic affairs. A person in high office can rarely take a view of his family-house. If *he* sees that the *state* takes no detriment, the *state* must see that *his* affairs should take as little."

Proposition 14. In the case of a real efficient office, no mass of emolument which either is or can be attached to it, ever is or ever can be too great.

Proofs. "I am not" (says he) "possessed of an exact measure between real service and its reward."

"I am" (continues he) "very sure that states do sometimes receive services, which it is hardly in their power to reward according to their worth."

"I do not" (continues he) "think the great efficient officers of the state to be overpaid:" he, Edmund Burke, who in so many words, has just been saying, "If I knew of any real efficient office which did possess exorbitant emoluments I should

be extremely desirous of reducing them. Others" (continues he) "may know of them. I do not."

Observations. Of the sincerity of this declaration, no question need be made. If so it had been, that any such office, "*possessing emoluments,*" which in his eyes were "*exorbitant,*" had been known to him, a "*desire,*" and *that* an "*extreme*" one, "of reducing" those exorbitant emoluments would have been the result of such *knowledge*. But in his eyes no such emoluments could be exorbitant. Therefore in his breast the formation of such desire must, notwithstanding the extreme desire he could not but have had to form such a desire, have been impossible.

At that moment, and for the purpose of the argument, such was the ignorance of Edmund Burke that he "was not possessed of," i. e. he knew not of "an exact common measure between real service and its reward." But except Edmund Burke, no man is thus ignorant, any more than Edmund Burke himself could be at any other time than that in which such ignorance had its convenience.

Between "*real service and its reward*" the exact common measure is the least quantity of the matter of reward that he who is able to render the service consents to take in return for it. This is the measure of all *prices*: this is the measure of the value of all good things that are at once valuable and tangible. This is the measure of the value of all *labour*, by which things tangible are produced: as also of all labour by which, though nothing tangible is produced, valuable service in some other shape is rendered. This was the *common measure*, by which the exact value had been assigned to the *coat* he had on his back. This was the exact common measure of the value of

those real services which had been rendered him by the person or persons by whom his coat had by means of one kind of brush, and his shoes by means of two others, been qualified for their attendance on the lips, by which this brilliant bubble was blown out.

But (says the sophist, or some disciple for him) there is no analogy (says he) between the service rendered to the public by a Minister of State, and the service rendered to one individual, by another individual, who removes extraneous matter from his coat, or puts a polish upon his shoes.

O yes there is—and to the purpose here in question, analogy quite sufficient.

1. They stand upon the same ground (the two services) in point of *economy*. There is no more economy in paying 38,000*l.* a year for the wearer of the coat, if he can be had for nothing, than in paying 20*l.* for a coat itself, if he can be had for 10*l.*

For the wearer of the coat—I mean, of course, for his services: his *services*; I mean his services to the public, if so it be that he be capable of rendering any.

But the misfortune is, that when once the “*reward* for service” has swelled to any such pitch, any question about the service *itself*—*what* is it? what does it consist in? *who* is it that is to render it? what desire, or what *means* has *he* of rendering it? of rendering to the public *that* sort of service, or *any* sort of service? Any question of this sort becomes a joke.

Where Sinecures, and those “high situations” in which they have now and then become the subjects of conversation among “great characters,” are taken for the subject of conversation among little characters in their low situations, questions and answers are apt to become giddy, and to turn

round in a circle. What are Sinecures of 38,000*l.* a year good for? to maintain the Sinecurists. What are the Sinecurists good for? to maintain the Sinecures. Thus on profane ground.—Thus again, on sacred ground. What are Bishopricks good for? to support Bishops. What are Bishops good for? to support Bishopricks.

2. So again as to probability of *efficiency*, and meritoriousness on the part of the *service*. Competition—preference given to the best bidder among candidates bidding upon each other, under the spur applied by that incentive—competition, affords in the instance of the party chosen, a better chance of fitness for the office and its services, than will in general be afforded by preference given, either without a thought about fitness for the *service*, or about *merit* in any other shape, or with thoughts confined to such merit of which *Parliament* is the only theatre, and in the composition of which, obsequiousness is the principal ingredient, and that an indispensable one. But of this proposition the truth, it is hoped, has been rendered sufficiently apparent elsewhere.*

SECTION VIII.

CONCERNING GRATUITOUS SERVICE, AND THE
PROFLIGACY INVOLVED IN IT.

Propositions 15, 16.

Proposition 15.—If a man were to decline receiving at the public expense, money which it were in his power to receive without danger either of punishment or of disgrace, it would be a conclusive

* Part I.

proof that his designs were to endeavour to filch money from the public, in some mode that would subject him to danger in one or other of the two shapes, or in both.

Proof. “I will even go so far,” (says he, p. 67) “as to affirm, that if men were willing to serve in such situations” (viz. offices of duty, “*all offices of duty*,” p. 66) “without salary, they ought not to be permitted to do it. Ordinary service must be secured by the motives to ordinary integrity. I do not hesitate to say, that, *that* state which lays its foundation in rare and heroic virtues, will be sure to have its superstructure in the basest profligacy and corruption. An honourable and fair profit is the best security against avarice and rapacity; as in all things else, a lawful and regulated enjoyment is the best security against debauchery and excess.”

Observations. “*If men were willing to serve in such situations without salary, they ought not*” (says he) “*to be permitted to do it.*” Here we have the theory—the waste-and-corruption-defending Sophist’s theory. What says experience? In Part I. of this tract may be seen a list, nor that yet a complete one, of men of various classes serving in such situations; and not merely without salary, but without neat emolument in any shape: and as for the not permitting them to do so, whether in in such *non-permission*, in whatsoever manner effected, whether by prohibition or otherwise, there would be any, and what use, let the reader, if any such there be, on whom this rhapsody has passed for reason or for reasoning, learn from it, if he be able.

“*Ordinary services*” (says the orator) “*must be secured by the motives to ordinary integrity.*” In Part I. the reader, it is hoped, has already seen,

that for the securing of ordinary service, to furnish any motive whatever, is not in the nature of Salary: that in so far as ordinary service comes to be rendered, it is by apprehension of eventual *punishment* that it is produced, that all that by salary can ever be done towards the production of it, is by engaging a man to subject himself to such eventual punishment; and that, if so it be, that without salary, he is content to subject himself to such eventual punishment, the service (it being ordinary service) is not merely *as* likely, but *more* likely, to be produced *without* salary than *with* it.

“*That state which lays its foundation in rare and heroic virtues,*” says the orator, meaning (for there is nothing else to which the word “*virtues*” can have any application) the disposition manifested by him, who “without salary is willing to serve in such situations.” Now, in a disposition of that sort, though there be great use, there is nothing that can bear the name of virtue. For (as is sufficiently proved by every morsel a man puts into his mouth, and every draught or sip he takes) so it is, that out of mere *utility*, even though it rise to the height of absolute *necessity*, no such thing as *virtue* can be made. Not that in these “situations,” or any of them, whether “served in,” “with or “without salary,” virtue rising even to heroism may not perhaps by accident be displayed: but any such accidental display is quite another business.

Now, if even by actual service in such situations, no “virtue” at all is displayed, or, by the man himself, who thus serves, is so much as conceived to be displayed, whether in the mere willingness so to serve there be any room for “rare or heroic virtue,” may be left to any reasonable person to pronounce.

Proposition 16. In any office of duty, “to be willing to serve without salary,” is to pretend to “rare and heroic virtue,” and is a “sure” indication of “the basest profligacy and corruption.”

Proof. “In all offices of duty,” (says he, p. 66) “there is almost necessarily a great neglect of all domestic affairs. A person in high office can rarely take a view of his family house.”——“I will even go so far as to affirm,” (continues he, p. 67) “that *if men were willing to serve in such situations without salary*, they ought not to be permitted to do it. I do not hesitate to say,” (continues he) “that, that state which lays its foundation in *rare and heroic virtues* will be *sure* to have its superstructure in *the basest profligacy and corruption.*”

Observations. In Part I. of this publication, may be seen a list, though by no means a complete one, of offices “*willingly served*,” not only without salary, but even without emolument; as also a list of others, by and for the obtainment of which, men are found who are willing to be out of pocket.

Observations. The Office of *Member of the House of Commons*—the Office of Delegate of the people in Parliament—is that, or is it not, in the number of his “Offices of Duty?” Is that, or is it not, in the number of his “high Offices?” Members of the House of Commons as such—the Members of the House of Commons taken together—have they not, in conjunction with their duty, more *power* than the Members of Administration taken together? In the Members of the House of Commons taken together, do not the Members of Administration taken together, behold their *Judges*, to whom, for their conduct as such they are continually accountable, and by whom, under the *form* of an *address* to the King, they are in *effect* displaceable? This assertion then, to the ab-

surdity of which men are to be made to shut their eyes by the violence, the unhesitating and audacious violence, with which it is endeavoured to be driven down their throats—try it, try it in the first place, upon the Members of the House of Commons.

A Member of the House of Commons, who, in that his office, “*is willing to serve without salary, ought not to be permitted to do it.*” Whoever does serve on any such terms, is a most “*base and corrupt profligate.*”

From this charge of base and corrupt profligacy, having for its proof the fact of a man’s performing public duty without salary, the *impossibility* of obtaining any portion of this his specific against corruption, may, it is hoped, according to the orator’s system, serve in the character of an *extenuation*, in a case where the inability is real and unaffected.

But within the compass of his knowledge, what man, public or private, can be at any loss to find public men—men of distinguished talents—men even of distinguished eloquence—who in that very station have served, and for a long continued course of years, with as much assiduity as it is possible for men to bestow, even for and with the most overflowing measure of reward? serving and toiling with an assiduity equal to that of the most assiduous minister all the time, yet without factitious reward in any shape, all the time having at command rewards to the highest amount, and even at the public expense?

Of these base and corrupt profligates, as Edmund Burke called them, and would have persuaded us to think them, I had even began a list, none of them unknown even to Edmund Burke, when I was stopped at once by a concurring cluster of considerations: the personality of the detail, my own incompetency for it, the room it would have

occupied, and, as it seemed to me, the superfluity of it.

As between individual and individual, that without expectation of money or money's worth, in any shape, in return, it may not happen to an individual to render a service to another, nay, even to persevere as towards him in a course of service of any length and degree of constancy, and this, too, without any sort of prejudice to probity, not to speak of base and corrupt profligacy, is surely more than any man, even the orator himself, was ever heard to assert: why not then to the public at large—to that all comprehensive body, of which individuals taken together are component parts?

For the labour or the self-denial necessary to the rendering the service to the individual, pure sympathy, pure of all self-regarding considerations, is frequently the sole, and being at the same time the efficacious, is thereby the self-sufficient motive. But when the public is the party to whom the service is rendered; in this case, in addition to whatsoever emotion of sympathy is called forth by the contemplation of the welfare of this aggregate body, in aid of that purely social spring of action, comes the prospect of gratification to the self-regarding affection, *love of reputation*, accompanied or not with the love of that *power*, which, whether put to use or not, reputation brings with her in her hand.

Besides the shape in which he would receive payment for the service, if no more than a single individual were the better for it, he who renders service to the public receives, or at least may not unreasonably expect to receive, payment for it, in those two other shapes besides. Yet, in the eyes of the orator, if he is to be believed, so unnatural

and incredible is the disposition to be on any occasion content with this treble payment, that should any such disposition find any man to manifest it, what the orator is quite "sure" of, and insists upon our believing, is, that that man belongs to the list of "base and corrupt *profligates*." Such is his sincerity, or such his knowledge of human nature.

After an answer thus conclusive, it may be matter of doubt, whether the inanity of the arguments, considered with reference to the state of things the orator saw at that time before him, be worth touching upon.

As in a magic lantern, the scene shifts every moment under his hands. On the occasion in question, to be of any considerable use, the view taken, it was necessary, should embrace the whole field of official emolument—the whole field of office. So, in his hands, but a page or two before it accordingly did. Now, and without warning, the extent of it is shrunk, perhaps to that of half a dozen offices, perhaps to that of a single office. To a single office confined it must be—to a single office, viz. that of the chief Minister, if, of the plan of *hypocrisy* he speaks of, the sort of despotism he speaks of is, in case of success, to be the consequence.

"Unfair advantage to ostentatious ambition over unpretending service,"—"invidious comparisons,"—"destruction of whatever little unity and agreement may be found among Ministers:"—all these words, what is it they amount to? words, and nothing more.

Realized they might be—all these supposed disasters; and still, on the part of the people, the question might be—What then? what is all that to us? how is it that we should be the worse for it?

1. Says A, I don't want all this money. Says B, I do. Here the thing which A is ambitious of is power, and power only: the thing coveted by B is the same power, with the money into the bargain. On the part of A, where now is the ostentation, where the ambition, more than on the part of B: and, if there were, where would be the specific mischief of it in any tangible shape?

2. *Invidious comparisons!* What is choice without *comparison*? and if invidious meant any thing, where is the comparison, which being made for the purpose of choice, is *not* invidious? What is parliamentary debate, what is any debate, but a topic of invidious comparisons?

3. *Destruction of unity and agreement among Ministers!* According to circumstances, such destruction is either a misfortune or a blessing. Misfortune to be sure it is, and nothing else, with reference to the ten or a dozen persons spoken of: but with reference to the people and their interests, a "destruction" of this sort is perhaps the most efficient, though it be but a casual, check upon misrule. In case of that system of misconduct, which it is so constantly their interest, and almost constantly in their power to persevere in, it affords the only chance—of *punishment* it cannot be said; for of *that* never, for this last half century, has there been any chance,—but of exposure. And in this character, the people, thanks to able instructors, begin to be not altogether insensible to its value.

But a Government in the quondam *Venetian* style—a Government, in which, under the guidance of upstart Machiavelism, titled and confederated imbecility should lord it over King and people, and behind the screen of secrecy, waste, oppression,

and speculation, should find themselves for ever at their ease; such was the Utopia of Edmund Burke.

To dispose men, if it be possible, to distinguish from solid argument, empty froth, such as this of Edmund Burke's, to distinguish it, and, whenever found, to cast it forth from them with the scorn which is its due, such has been the object; such, if they have had any, has been the use, of these four or five last paragraphs.

SECTION IX.

A PROPHECY, AND BY BURKE—THE KING WILL SWALLOW UP THE WHOLE SUBSTANCE OF THE PEOPLE.

Proposition 17.—THE King, with the advice and consent of Lords and Commons, will “*infallibly*,” one of these days, possess himself of the whole property of the country.

Proof. “For,” (says he, p. 67) “as wealth is power, so all power will *infallibly* draw wealth to itself by some means or other: and when men are left no way of ascertaining their profits but by their means of obtaining them, those *means*,” (continues he, but the argument, it will be seen, required him to say, those “profits”) “will be increased to infinity. This is true” (continues he) “in all the parts of administration as well as in the whole.”

Observations. These doctrines, I mean of the exposure thus made of them, the use is, to show what extravagances imagination is apt to launch into, where, to bring down an *ignis fatuus* for the defence of an indefensible proposition, it mounts without

rudder or compass into the region of vague and aërial generalities.

The result, to any such extent as that in which, for the purpose of the moment, the sophist tried, or pretended, to regard it as infallible, is as far, let us hope, from being in any degree a probable one, as at another time he would have been from speaking of it as such.

In the situation of Chief Minister, or in any other situation, if, by means of an artifice, which, long before it had travelled any considerable length in the tract of success, must have become transparent and visible to the whole people, it depended upon a single individual to possess himself of the whole "*power*," and by means of it the whole "*wealth*" of the country, what is it that should have prevented this conquest of the whole *wealth* from having been achieved, achieved ages ago, by those who have had the whole power in their hands?

To the *power*, that exists in the hands of the members of the sovereignty as such—to this power is to be ascribed as to its cause, the aggregate mass of the several portions of the matter of wealth, which, in their *individual* capacities, are at any given point of time respectively possessed by them. To the power itself there are not any legal limits: there ought not to be any. But to the aggregate mass of wealth actually possessed by them, how excessive soever, limits there always are: limits comparatively narrow: and, at all times, seeing what that *mass* is, we see what those limits are. The King, with the advice and consent of the Lords and Commons, might, if such were his pleasure, might, viz. by act of Parliament, take into his hands the whole wealth of the country, and share it between himself and them. Nothing could be more cor-

rectly lawful: but, as few things would be more manifestly *inexpedient*, it is what never has been done, and what nobody sane or insane is afraid of seeing done.

Not but that the advances made towards this point of consummation have been somewhat nearer than could have been wished: and in this way, as in every other, in the eyes of those who profit by what is *wrong*, “whatever is is right:” yes, and not only *right*, but *necessary*.

But of the necessity where lies the proof? Here, as elsewhere, it lies in the existence of the *practice*: which where the thing to be proved is the necessity of that same practice, is, according to the logic of *practical* men, proof abundantly sufficient.

Pressing on the people with so heavy a pressure as this vast portion of their burthen does, on what *ground* is it that it is concluded to be, to wit, in the whole of it, necessary? On this ground, viz. that it is—that in the whole of it, it is—*customary*. And how came it to be customary? Because those whose *interest* it was to make it as great as possible, as great as the people would endure to see it made, found they had *power*, and without preponderant inconvenience, in the shape of danger to themselves, viz. from discontent on the part of the people, to make it what it is.

This *power*, the word power being here taken in the *practical* sense, is all that, to the purpose here in question, has ever been attended to. As to *need*, *demand* in respect of *public utility*, of that utility which is such with reference to the interest of the whole people, *need* or *necessity* in *this* sense, never is—never has been—felt to be worth a thought.

As to all those things, in respect to which it is

the interest of rulers that the mode of Government should be bad, it of course always has been, and of course always will be, as bad as, in their judgment, the people will quietly endure to see it.

This Economy Bill of Edmund Burke, for example, was it produced by *virtue*, by *public spirit*, on the part of Edmund Burke? No: nor so much as by policy alone—if by policy be meant any *spontaneous* policy on his part, how personal soever and pure of public spirit. Towards the production of this measure, such as it is, *prudence*, meaning apprehension of nearer inconvenience, howsoever assisted by *policy*, meaning hope of more or less distant *power*, with its concomitant sweets, operated, and with no small force as it should seem, on his mind. The proof is in certain *petitions* which he speaks of.

As to these “*petitions*,” they are such as could not have been all of them of his *calling forth*, at least not all of them of his *dictating*, since some of them were troublesome to him. Amongst the things called for by them was, in the instance of several of them, the thing which in this place is more particularly in question, viz. “*the reduction of exorbitant emoluments to efficient offices*.” This, though spoken of by him as an article, “*which seems to be a specific object in several of the petitions*,” is an object with which he expressly declares himself “*not able to intermeddle*.”*

* That the thread of the rhetoric may be under view in its entire state, and without a break, here follows the whole passage:—

“Sir, I think myself bound to give you my reasons as clearly and as fully, for stopping in the course of reformation as for proceeding in it. My limits are the *rules of law*; the *rules of policy*; and the *service of the state*. This is the reason why I am not able to intermeddle with another article, *which seems to*

SECTION X.

GRATUITOUS SERVICE, BURKE'S OBJECTIONS TO IT REFUTED. — NECKER. — BURKE'S EAST INDIA BILL.

THE orator continues—"If any individual were to decline his appointments, it might" (continues he, p. 67) "give an unfair advantage to ostentatious ambition over unpretending service; might breed invidious comparisons; it might tend to destroy whatever little unity and agreement may be found among ministers. And, after all, when an ambitious man had run down his competitors by a fallacious show of disinterestedness, and fixed himself in power by that means, what security is there that he would not change his course, and claim as an indemnity ten times more than he has given up?"

be a specific object in several of the petitions; I mean the reduction of exorbitant emoluments to efficient offices. If I knew of any real efficient office which did possess exorbitant emoluments"—(continues he) and then comes the profession of the hypothetical and hypocritical wish to reduce them, as above.

"*Rules of law,*"—"rules of policy"—"*service of the state*"—all these quiddities may here be seen held up to view, as so many distinct limits, serving as bars to reformation, let down, on this occasion, for the particular purpose of stopping the reduction of exorbitant emoluments: precious bars composed of rhetorical jargon, void of meaning. "*Rules of law,*"—no attempt to bring forward any such rule: nor could any such attempt have been other than an absurd one. "*Rules of law?*" Yes, to a judiciary. But to the legislator, what sort of a *bar* can that be, which is removed or broken through of course, at every step he takes.

"*Rules of policy*" and "*the service of the state*"—the same idea; as, in a strolling company, the same performer brought on upon the stage, twice over in two different dresses.

To these arguments, such as they are, against gratuitous service, my answer, so far as regards the plan above alluded to, is a simple and decisive one. To the plan of adequate salary, coupled with sale so far as applicable, for the account of the public, with the benefit of competition they have not, any of them, any application. For "*ostentation*," under that plan there is no room: the retrenchment, whatever it may amount to, being to all competitors matter of necessity, to none more than another matter of choice: and if it be in this ostentation, that the two other alleged mischiefs, whatever they may be, meant to be denoted by the words "*invidious comparison*," and "*destruction of unity*," have their supposed source, the *ostentation* being out of the case, so will these other supposed mischiefs be likewise.

Here (to speak in his own words) there would be no such "*declining*"—no such "*unfair advantage*"—no such peculiarly "*invidious comparison*"—no such mischievous "*destruction of unity and agreement*"—no such "*running down of competitors*" (for one and the same call would be given to all competitors)—no such "*self-fixation*" of one man alone "*in power*," and by means peculiar to himself.

"And after all" (continues he, as above) "and after all, when an ambitious man had run down his competitors by a fallacious show of disinterestedness, and fixed himself in power by that means, what security is there that he would not change his course, and claim as an indemnity more than he has given up?"

Gratuitous official service—and, under the name of gratuitous official service, reduction of official emolument being the object still contended against, here we have a quite new argument. Till now, it

was in other shapes, though indeed in all manner of shapes other than that of frugality, that, in case of any such reduction, the service was to suffer: now it is in the shape even of frugality itself. Whatsoever a man (the sort of man in question) gives up in appearance, in reality (says our sophist) he will take to himself "*ten times more.*"

To the above proposed plan of retrenchment, the objection, such as it is, has not, it must have been seen already, and for the reasons already given, any the slightest application. But even with reference to the then existing state of things, what could be more extravagant?

On the part of the orator, suppose on this occasion any the smallest particle of thought, and at the same time of sincerity, what must have been the opinion entertained by him of the state of government in this country, and how profound at the same time his indifference to it? The state of government such, that on so easy a condition as the giving up a mass of lawful emolument for a time, a man might *make sure* of gaining, in the way of "base profligacy and corruption," *ten times* "as much" in the long run! and this sort of speculation, promising and feasible enough, not only to be *worth* guarding against, but to be *necessary* to be guarded against, and that at such an expense as that of making an all-comprehensive addition to the mass of official emolument! and this too an addition without bounds!

Oh no! (cries the orator) not *make sure*, those were no words of *mine*: "*claim*" was *my* word, "*claim*" and nothing more. Oh yes, Mr. Orator, "*claim*" was indeed the *word* you used; but *make sure* was the *idea* it was your object to convey by it: for, sure enough, where public money is the subject, it is only by what a man *gets*, and not by

what he *claims*, and *without getting* it, that any mischief can be done.

In writing, no man ever weighed his words in nicer scales; no author ever blotted more. To find, for each occasion, a set of words that shall comprehend two meanings, one for *attack*, another in case of necessity for *retreat* and *self-defence*; such throughout is the study of the rhetorician, whom devotion to a party reduced to that species and degree of servitude, with which sincerity is incompatible. In this sinister art no man ever laboured more—no man surely ever made a greater proficiency—no man, one may venture to say, ever made so great a proficiency as this Edmund Burke.

Here we have a picture (shall we say) or a plan of Machiavelism, sketched out by his own hand. In itself it is but a loose sketch, for, by anything like a complete and correct draught, too much would have been brought to view. But in its exact shape, no small part, and in outline the whole, was already in his own breast. Nor, so far as concerned his own portrait, was it from fancy but from the looking-glass that he drew.

The Treasury Bench—the Castle of Misrule—stood before him. Sham-Economy, an instrument of “Young Ambition,” the ladder by which it was to be scaled. Already the ladder was in his hand. A bill for “*independence*” and so forth—and for “*economical reformation*” and so forth—was the name—the wordy name—he had found for it.

At the end of a long contest, the ladder performed its service. But when the fortress was in his hands, a buttress was deemed necessary to enable him to maintain his ground. The buttress fell, and he in it, and along with it; the buttress fell, and great was the fall thereof.

And what was this buttress? Few readers can be at a loss for it.

Four years after, when under the pressure of the mass of corruption, in the hands of the secret advisers of the Crown, they betook themselves for relief, he and his party, not to the legitimate influence of the people, as it would have been manifested in an equalized representation, accompanied with the exclusion of dependent votes, but to a counter mass of corruption, to be drawn from the East Indies—it was to the “*fallacious show of disinterestedness*” made by this his *Economy Bill*, already carried and turned into an Act, that he trusted for that blind support, which he had looked for at the hands of a supposed blinded people. The result is known to everybody.

As to the picture we here see him drawing, it was at the time of his thus drawing it, half history, half prophecy: the prophetic part left unfinished, as everything in the shape of prophecy must necessarily be.

The picture dramatised, the characters and other objects in it, might stand as follows:

1. “*Ambitious man*,” Edmund Burke.
2. “*Fallacious show of disinterestedness*,” the show made by this *Economy Bill* of his with the inconsiderable retrenchments (60,000*l.* a year, or some such matter) effected by it.
3. “*Competitors run down*” by means of it (in addition to the force derived from other sources, such as the unpopularity and ill success of the American war, together with the exertions of arbitrary vengeance in the case of Wilkes, &c.) Lord North and his Ministry then in power, with the secret advisers of the Crown for their support.

4. Instrument attempted to be made *for the* “*fixing himself in power,*” Burke’s East India Bill: a steadiment, containing in it a sort of pump, contrived for drawing from the East Indies the matter of *wealth*, to be applied in the character of matter of *corruption*, by hands of his own choice, to the purpose of engaging a sufficient number of workmen for the fixing him and his party as above, to wit, with such a force of resistance as it should not be in the power of the secret advisers of the Crown, with all the assistance they could get from the people, to overcome.

As to the particular “*course,*” which, for the purpose of reaping the fruits of his conquest, had this machinery of his succeeded, it might have happened to him to take, and with the word *indemnity* in his mouth, the quantity of public money he might *have claimed*,—so it is, that his grand instrument of steadiment and “*fixation*” having failed, all these, together with so many other *quondam* future contingencies, remain in darkness inscrutable. But, supposing the indemnity no more than “*ten times*” the amount of the sacrifice, still would it have fallen short, as anybody may see, of the ground prepared for it by this his speech.

Some years after, viz. about the year 1790, a decent quantity of public money, even though not in office, he did contrive to get: but forasmuch as for this donation there was a pretence made out of a Pamphlet, with the help of which the embers of war between Britain and France were blown into a flame, and, for security against anarchy, the good people of Great Britain driven, as far as by his pious endeavours they could be driven, into the arms of despotism, so it was, that the bread of

sinecure—the sacred *show-bread*, destined and appropriated to the Chief Priests of the Temple of Corruption—was not, any part of it, profaned and diverted to this use: reward in the ordinary shape of *pension* being regarded as applicable to, and sufficient for, this ordinary service.*

* “This rule,” (continues he, p. 67) “this rule, like every other, may admit its exceptions. When a great man has some one great object in view to be achieved in a given time, it may be absolutely necessary for him to walk out of all the common roads, and if his fortune permits it, to hold himself out as a splendid example. I am told” (continues he) “that something of this kind is now doing in a country near us. But this is for a short race: the training for a heat or two, and not the proper preparation for the regular stages of a methodical journey. I am speaking of establishments, and not of men.”

As to the splendid example he was here alluding to, it was that of *Necker*; and here, as the sequel showed, the orator was completely in the wrong. What he could not make himself believe, or at least could not bear that others should believe, was, that this training of *Necker's* (meaning the serving in the office of Finance Minister without salary) could last for more than “*a heat or two.*” It lasted however during the whole of his “*journey*” nor that an “*unmethodical*” one. He did more than serve the public without being paid for it: he trusted the public, that child of his own adoption, with his own money—with the greatest part of his own money: and that public—that “*base and profligate,*” though, in a pecuniary sense, not in general corrupt, trustee of his, betrayed its trust.

SECTION XI.

BURKE'S OBJECTION TO THE APPLICATION OF
THE PRINCIPLE OF COMPETITION TO THIS
PURPOSE—ITS FRIVOLOUSNESS.

AFTER denying that the great efficient offices are overpaid, "The service of the public" (continues he) "is a thing which cannot be put to auction, and struck down to those who will agree to execute it the cheapest."

Cannot! Why *cannot* it? Upon the face of it, the proposition bears not so much as the colour of reason; nor in the sequel is either substance or colour so much as attempted to be found for it. Of *possibility*, what is the sort of evidence that in this case he would require? Would *fact* have been regarded as admissible? "The service of the public is a thing, which," a year afterwards, after the orator had been in, and out again, Pitt the Second did "*put up to auction*"—"did strike down to those who would agree to execute the cheapest:" and this to such an extent, that, in comparison of the saving thereby effected, whether money or improbity be the article considered, the utmost saving so much as projected by this our sham-reformer, shrinks into insignificance.*

This, it is true, the pseudo-reformer had not as yet witnessed. But there was nothing in it that was not in the most perfect degree obvious: what difficulty there was in the business consisted not in the *thinking* of it, but in the *doing* of it.

But what the sophist trusted to was the word

* Viz. in the instances of Loans, Lotteries, and Victualling contracts.—See Mr. Rose's Observations, &c. pp. 26 to 31.

auction, and the sentiment of ridicule which, if applied to the subject in question, he hoped to find prepared for the reception of it in men's minds. Mention the word *auction*, the image you present is that of a man with a smirk upon his countenance mounted on the burlesque of a pulpit, with a wooden hammer in his hand, expatiating upon the virtues—sometimes of statues and pictures, sometimes of chairs and tables.

The hyperboles employed by orators of that class while expatiating on the virtues of the vendible commodities consigned to their disposal, are, as he in common with every body else must have remarked every now and then, such as while in some parts of the audience they produce the desired impression, excite in the minds of others the idea of the ridiculous.

But no panegyric that was ever bestowed by any such orator on the picture or the screen of a Marquis or a Duke, had more of exaggeration in it than the pictures which this vender of puffs was so expert at drawing, naming them after this or that one of his most noble patrons and originals. His piece of still life, called the Marquis of Rockingham—his Duke of Portland, into the picture of which a Kneller or a Reynolds would have put more thought than Nature and Art together had been able to force into the original—that original whose closest resemblance to a picture that had thought in it was the property of being vendible—that puppet, whose wires after playing for a time so easy, ran rusty at last under the hand of Mr. Canning—viewed through the raree-show glass of Edmund Burke, these and so many other “*great characters*” appeared no less fit for their “*high situations*” than the Counsellors of King Solomon, when, with Punch for their interpreter, on the drawing up

of the curtain, they are displayed in the act of paying tributes of wisdom to the wise.

Competition.—This word would not, as *auction* so well did, serve the sophist's purpose. To the word *competition* no *Smirk* stands associated—no pulpit—no hammer. *Competition*—a power, the virtues of which had already been so well displayed by Adam Smith, not to speak of Sir James Stewart. In *competition* he beheld that security against waste and corruption which would have been mortal to his views.

SECTION XII.

CONCLUDING OBSERVATIONS.—BURKE, WHY
THUS EXAMINED.

ERASMUS wrote an elogium on *Folly*: but Erasmus was in jest: Edmund Burke wrote an elogium—he wrote *this* elogium—on *Peculation*:—and Edmund Burke was serious.

In thus exhibiting the orator in one of those fits of extravagance to which he was but too subject—in exhibiting the orator's own figure, according to the monstrous caricature we have seen him drawing of himself, viz. that of a man, in whose estimation nothing but money has any value—a man by whom all breasts that have anything in them that is not sordid, are to be marked out as fit objects of abhorrence,—let me not be accused of wasting time and paper.

It is out of this his book—meaning always such parts of it as are found suitable, that our statesmen of the present day may be seen taking their lessons. It is out of this his garden of sweet flowers that the still existing Finance Committee, and without

acknowledgment, have culled, as we have seen, a chaplet wherewith to decorate their brows. It is in this his school, that by another Right Honourable Teacher of Economy, those maxims have certainly been found, and to all appearance learnt, which we shall come to presently.

Had the purpose of his argument, or of his life, required it—here, in this very place, instead of declaiming and writing *for* money, and trying to persuade men that nothing but money is of any value, the orator might, and naturally would, have declared *against* money,—shown in the way that so many other declaimers have shown, that it is of no value, that it is even worse than useless, and that without “*the basest profligacy and corruption*” no man—no public man at least—can ever get, or try to get, any of it.

In exaggerations, improbity or folly may behold a use on either side; but to common honesty, nothing is here needful but common sense.

Money is a good thing; a very good thing indeed: and, if it were not a good thing, scarce would any thing else be: for there are few good things which a man may not get by means of it: get, either in exchange for it, or (what is still better) even without parting with it.

But the misfortune is, that from us the people, for paying orators of the class of Edmund Burke, it is not to be had without our being forced to part with it: and if the orator suffer in case of his not having it, in case of his never having got so much of it as he could have wished, we the people, who, after having had it, find ourselves, for the use and benefit of the orator, forced to part with it, suffer still more.

Thence it is, that if there be anything else, which, the people not feeling themselves forced

to part with it, the orator can persuade himself to be satisfied with, so much the better. Upon this plan, every body is satisfied; orator and people both: whereas, upon the orator's plan, only one of the parties is satisfied, viz. the orator; the orator, who is the agent and spokesman of *the ruling few*; while the other party, viz. we the people, are suffering and grumbling, and as it should seem not altogether without reason; for we are *the many*; and in our number consists our title to regard: a very unpretending title, but not the less a good and sufficient one.

DEFENCE
OF
ECONOMY

AGAINST THE
RIGHT HONOURABLE
GEORGE ROSE.

FIRST PRINTED IN SEPTEMBER 1817.

DEFENCE

OF

ECONOMY

AGAINST THE

RIGHT HONOURABLE

GEORGE ROSE

FIRST PRINTED IN SEPTEMBER 1817

ADVERTISEMENT.

WHILE committing to the press so free an examination as this will be found to be, of Mr. Rose's declared *principles*, as published by him on the subject of public expenditure, there would, as it strikes me, be something ungenerous at least, if not unjust in the omission, were I not to make acknowledgment, as, without any communication, direct or indirect, with the Right Honourable Gentleman, I hereby do, of such proofs of due regard for economy as by incidents falling exclusively within my own observation have been furnished by his *practice*. Of the measures alluded to—two in number—both were in a very considerable degree important: one of them, in respect of extent as well as difficulty, pre-eminently so: and, on both occasions, in his instance as well as that of Mr. Pitt, by such tokens, as in the nature of the case could not have left room for doubt in the mind of any person in any situation, it fell in my way to be assured that a real regard for economy, forming a striking contrast with the mixture of waste, corruption, and dark despotism which in one of the two cases has since been exemplified, was an actuating motive: and that with the spon-

taneously expressed desire of receiving those suggestions, which, had not circumstances above their control stood in the way, would accordingly have been received, any such design on the parts of either of them, as that of giving on the particular occasions in question, any such increase as, on one of those occasions has since been given, to corruptive influence, was plainly incompatible.

As to the tract itself, with the exception of a few inconsiderable verbal alterations, which the nature of the case necessitated, it is exactly in the state in which it was written; which was in the months of April and May, 1810.

DEFENCE OF ECONOMY

AGAINST ROSE.

SECTION I.

INTRODUCTION.

HAVING taken my leave of the departed orator, I have now to pay my obeisance to the surviving statesman; who, though in the line of politics not always conjoined with him, will, in the track of principle, be on the ground here in question, found, as there has already been occasion to observe, separated from him by no great distance.

For principles such as on this same ground may serve as a standard for comparison, I must, on this occasion, as on that other, take leave to refer the reader to these closely compressed thoughts, which are about to take their chance for obtaining a small portion of his notice.

For the convenience of such persons whose taste or whose disposable time shrinks from any such mass as would be formed in the union of all *three* papers, I detach in advance these two parts from that which had been intended to precede them. But forasmuch as throughout this *third* part, reference, either express or tacit, is all along una-

voidably made to the principles laid down in the postponed part, and enforced by that by which this one has now lately been preceded;* I find myself in this respect reduced to the necessity of supposing, or at least writing as I should do, if I supposed the postponed, as well as the already published part, to have already made its experiment upon the reader's patience.

In the production of *Edmund Burke*, the quantity of matter taken for the subject of examination, was that which happened to be contained between the 62d and 68th pages, both inclusive. Within the pages designated by the same numbers, happens to be contained the only part of Mr. Rose's work, to which the like tribute of unre-mitted attention has on the present occasion been paid.

A coincidence rather more material, is—that of the *discrepancy*, not to say the *repugnancy*, which in this instance as in *that*, will, if I do not greatly deceive myself, be seen to have place. By the one architect as by the other, to the same virtue, viz. *economy*, a temple erected in the first part, beaten down in the second.†

* In the *Pamphleteer*, No. XVII. January 1817.

† As to the *method* pursued in the present instance—whether it was that by the statesman in question, no such elaborate art, having *here*, as there, been employed in wrapping up peccant matter in splendid language—or in short, howsoever it happened, so it has happened that the course taken on that occasion by the commentator, so far as concerns the prefixing *interpretations* to *text*, has not been pursued here. But, to avoid all design, as well as charge of mis-representation, the same care that was taken there has been continued here, viz. that of not hazarding in any instance any thing in the shape of a *comment*, without laying at the same time before the reader, in the very words, whatever passage served or contributed to form the ground of it.

SECTION II.

MR. ROSE'S PLEAS IN BAR TO ECONOMY.

Plea 1.—Vastness of the Expenditure.

1. THE first of his pleas thus pleaded, in bar to any defalcations that might be proposed to be made from the mass of public burdens, is that which, with that ingenuity which will not pass unobserved, has been made out of the very magnitude of the mass.

“The whole revenue of Great Britain,” says the Right Honourable Gentleman (p. 62) “is more than 60,000,000*l.* a year; the charge on which of 242,000*l.* for pensions and sinecure employments at home and abroad, is between three farthings and one penny in the pound. By the extinction, therefore, of all sinecures and pensions, a person paying taxes to the amount of 50*l.* a year, would save about 4*s.*; such a saving,” continues he, “*we* (who are *we*?) are far from thinking should be treated as trifling or insignificant, it would ill become *the author* to do so: on the other hand, how infinitely short would this fall of the expectation that has been held out.

“But if,” continues he, “from the total sum received from *sinecures, places, and pensions*, deduction were made of such as have been given as rewards for public services, the amount would be very greatly reduced; pensions to foreign ministers in particular, whose appointments are hardly in any instance sufficient for their maintenance.”

It is to “*sinecures and pensions*” alone, that this argument has, by the ingenious author, been ap-

plied, to the extra pay of over-paid places, not : but, applying as it does to both branches of expenditure, and with equal force, it would be wronging the argument not to give to both of them the full benefit of it.

Now, true it is, that were this argument to be received in the character here proposed for it, it would, it must be confessed, be a very convenient one, and save others in abundance. For every 4s. a year which you wish to give away without any public use, contrive to spend 50*l.* a year, for which such a use or the appearance of such a use can be found, and your justification is then made.

Meantime, some reasoners there are, to whom the contrary inference would appear the more reasonable one: unnecessary or even necessary, the heavier the mass of our burdens is already, the less able are we to bear any addition to it, or even this or that existing part of it.

In my own view of the matter, I must confess the consideration of the magnitude of the mass, is a consideration to which, on a question such as the present, there can be no necessity nor any great use in recurring.

Whatsoever it be that at the expense of the people, is by the trustees of the people, given to this or that individual without equivalent, and that an adequate one, I mean without either receiving or reasonable expectation of receiving on account of the public a preponderate advantage, is so much *waste*,—and if given with eyes open to the misapplication of it, so much *peculation*.

When by *indictment* a man is prosecuted for theft, or by bill in equity for a breach of trust in the way of peculation, that of the pecuniary circumstances of the party to whose prejudice the act of dishonesty has operated, any account should be

taken, is never looked upon as necessary, or so much as admissible. And not being so on that individual scale, I see not why it should be so on this all-comprehensive scale.

But if so it were, that I found myself under an obligation of bringing this topic to view, it seems to me, that in the vastness of the existing burdens, I should be more apt to view an argument for decreasing it, than either for giving increase to it, or so much as keeping it from decrease.

The misfortune is, that without being thus expressed, this consideration has in experience operated, and with too much effect, in disposing the people to acquiesce without remonstrance, under unnecessary pressure. Turn over the book of history, you will find that the heavier the burdens have been with which the people have been loaded, the greater the facility that has been found for rendering the load still heavier: or, what comes to the same thing, look backward, and you will find that the more considerable the load they had been accustomed to, the greater was the difficulty that was experienced in persuading them to submit, though it were but for a year or two, to any addition to it.

If as the facility of engaging them to submit to increased burdens increased, the suffering produced by those burdens diminished, this disposition of mind would be as desirable as it is natural: but unfortunately this is not the case. By heaping law taxes upon law taxes, and law fees upon law fees, you may ruin a thousand families one year, two thousand the next year, and so on: and, the greater the number that are thus ruined, the better enabled and the better satisfied will the man of finance and the man of law be to go on receiving more and more: it will be to both of them, as it has been to both of them, and *to both in one, a motion of*

course; but it does not appear, or (to speak intelligibly to learned gentlemen) *non constat*, that when the number thus ruined is two thousand, the affliction is to each or any of them lighter than when the number was but one thousand.

For forming a gag to stop complaints in the mouth of the party tormented, as well as a *callus* to case the heart of the tormentor, precedent is indeed a mighty good thing; and the more manifold the precedent the more effective the gag, as well as the harder the callus: and the latter use is that to which these several pleas against economy, and this first plea in particular, seems more especially destined and adapted. The misfortune is, that by the callus formed round the one heart, the affliction that rends the other is not assuaged.

Oh, but sir, (cries somebody) what is it you are about all this while? and how sadly have you been misrepresenting the Right Honourable Gentleman! Here are you imputing to him this sad purpose, and that immediately after having read and passed over (fie upon you!) a paragraph in which he tells you *himself* the purpose he had in view, and that a very different one.

True it is that I have read that paragraph; but as to the purpose spoken of in it, I feel myself under a sort of embarrassment which I shall proceed to state.

“The opinion already alluded to,” (says the paragraph, p. 62) “as prevailing *to a certain extent*, that if sinecures and pensions were entirely suppressed, the burdens of the country would be *instantly lightened to a great amount*, and by some entertained that they would in that case be *removed altogether*, renders it *necessary* that a comparison should be made of the before-mentioned total, (viz. of sinecures and pensions) large as it is,

with the amount of the taxes raised upon the people."

Now then—what is *expressly* averred here, is—that an opinion to the purpose in question is "*prevailing to a certain extent.*"

What seems to be insinuated—I should rather say—what from the idea of "*necessity*" thus brought to view, some readers might be apt to imagine, is—that the purpose the Right Honourable Gentleman had in view, was only the setting the *people* right in respect of this supposed prevalent error, and not the persuading the imposers of public burdens to consider the enormity of the mass as affording an argument for not diminishing it.

Now then, as to this supposed error: what seems to me is, that it must have been in some vision or some dream, and no where else, that any person not in the care of a keeper, could have presented themselves to the conception of the Right Honourable Gentleman, as entertaining it. The interest of the debt paid without money—the expense of the army defrayed without money—the expense of the navy defrayed without money—all this, not to speak of anything more, must have been believed by any person, in whose mind any such opinion should prevail, as that if sinecures and pensions were suppressed, the burdens of this country would be removed altogether.

Another thing that passes my comprehension is, how should it be that, supposing them to have found "*to a certain extent,*" whatever that extent be—that is to a certain *number*, whatever that number be, a set of people among whom any such opinion was prevalent, how it should be that it should have entered into their conception, otherwise than in dream or vision, as above, that for

the purpose of setting right any such people, and weaning them from their error, there could be either necessity or use, in bringing forward any such ingenious and accurate calculation as that which has just been seen, and which he was thereupon immediately about to treat us with: as if, supposing the existence of any such swine, such pearls could be of any the smallest use to them!

If to so Right Honourable a Gentleman anything could be attributed, that would bear any such appellation as that of *artifice*, (no, I will not call it *artifice*, I will call it *astutia*—and then everything will be as it should be) what, on an occasion such as this, one should be tempted to suppose, is, that the agreement thus brought forward, and put in front of the battle, was the result of a *consultation* with some learned, or quondam learned, as well as Right Honourable or Honourable Gentlemen, profoundly learned in that superior and purer branch of the law called *equity*; one of the rules of which is, that in the drawing of the initiative instrument called *a bill*, to entitle yourself to ask a question of the defendant, you must, in the first place, impute to him the having told some story or other, no matter how extravagant, which he never told, to serve him in the character of a “*pretence*” for defrauding the orator (your client) of his due; he himself neither having heard of the defendant’s ever saying any such thing, nor believing him to have ever said it; which falsehood having thus with all due regularity been come out with, serves by way of licence, as well as introduction, to whatsoever other falsehoods, mixed with whatsoever truths, it may have been deemed convenient to introduce.

SECTION III.

PLEA 2.—NEED OF PROVISION FOR DECAYED
NOBILITY, &c.

2. THE next plea is that which is founded on the alleged necessity of making provision for noble and respectable families fallen into decay.

“The pension list” (continues the Right Honourable Advocate, p. 63) “also contains provisions for *noble and respectable families* fallen into decay; this is, however,” (continues he) “an exertion of *national generosity*, if not of *justice*, which *the most scrupulous economist* will hardly consider as improper. Something” (continues he) “must certainly be allowed for mere favour; but when the instances are *clearly improper*, (and it is not meant to contend there are no such) they are at least open to public animadversion, as they are now *regularly laid before parliament*, and printed from time to time, *which certainly affords a considerable, if not an effectual check against abuse.*”

Thus far the Right Honourable Gentleman. For my own part I am doomed to fall into sad disgrace with him. The conception entertained by him of any “*the most scrupulous*” sort of person, in the character of an “*economist*,” is far outstripped by me. Under what denomination it may be my lot to fall in his black dictionary, I know not; if it were that of Jacobin or Leveller, it would be no surprise to me.

Of the sort of *justice*, which can so much as *permit*, not to speak of *commanding*, any such disposal of public money, I have no conception, nor yet of generosity, unless it be of that pernicious

and hypocritical sort, which gratifies itself at the expense of justice.

My protest is in the first place against the *principle*; as being founded on oppressive extortion, and breach of trust; as affording encouragement to extravagance, and to every vice that is fed by extravagance; as being still unjustifiable, even though there were a certainty of its not having either vice or extravagance for its consequence any more than for its cause.

My next objection is to the *amount*; as being without limit; as scorning all limit: and being of itself capable of effecting a revolution in the state of *property*, if it did not, in a revolution in the state of *power*, find a preventive remedy.

I. In the first place, as to *principle*.

Now, to a provision of the sort in question, what is it that, according to the Right Honourable Gentleman's law, is to constitute a man's title? It is "*decay*;"—mere decay;—the having *fallen into decay*; i. e. the being at the time in question in a state of indigence. Mark well, that to indigence at that degree, to which the next degree is death, or at least disease, his argument does not look; for indigence in that shape, provision is made already—made, to wit, by the species of tax called the *Poor Rates*: a tax which, even by the Right Honourable Gentleman himself, on whose feelings public burdens sit thus lightly, has never been spoken of as a light one.

This provision then is not the sort and degree of provision he has in view: of the sort and degree of provision which he has in view, what more adequate or unexceptionable description can be given, than that which has been given in and by his own words? for "*noble*" families then, it must be *noble*, for "*respectable*" families, it must be *respectable*.

Against provision of even the scantiest kind, an objection that by many has been regarded as a peremptory one, is, that it operates as a provision for idleness and extravagance. By myself any more than by the Right Honourable Gentleman it has never been regarded in that light ; not seeing that so long as it is confined to what is absolutely necessary to keep a person alive and free from disease, and given on condition of working, where work can be made profitable (and beyond this I undertake not for the defence of it) subsistence is capable of acting to any preponderantly formidable extent in that character: and considering that, without some such provision, multitudes there are, that by infirmity, the result of infamy, or decrepitude, or disease, would without any default of their own, be exposed to perish, and would accordingly perish, by lingering disease or famine.

But by any such provision, neither the *generosity* of the Right Honourable Gentleman, nor so much as his *justice* is to be satisfied ; for *noble* families, satisfied it never can be by any thing less than a *noble* provision: for *respectable families* by any thing less than a *respectable* one.

In the provision already made by law—a provision neither limited, nor, unfortunately for the country, capable of being limited—some have viewed a gulph capable, of itself, of swallowing up one of these days the whole produce of national industry. Of any such disaster I have not for my own part any serious apprehension ; but, of the *generosity* of the Right Honourable Gentleman, or by whatever other name this article in the catalogue of his virtues be to be called, of this virtue, if once admitted to operate, and in the character of a *principle* set the law to practice, I cannot but regard this catastrophe as an inevitable consequence.

II. For now let us think a little of the *amount*: and to this the Right Honourable Gentleman has not attempted to set any limits. Vain indeed would have been any such attempt; the principle scorns all limits. Taken by itself, nobility, had *that* been the only source of demand on this score, would not have scorned all limits. Noble families, for example, so many:—in each family, generations reckoning downwards from each peer, to be regarded as still *noble*, so many:—minimum of the pension to each individual in a state of decay, according to the rank occupied by the family in the scale of the peerage, is so much.—Here would have been one exercise for the Right Honourable Gentleman's skill in figures.

But neither for the Right Honourable Gentleman's *generosity*, nor for his *justice*, is it enough, that for *noble* families in decay a *noble* provision be thus kept up; for *respectable* families in the same state there must moreover be a *respectable* one. Here all powers of calculation, even those of the Right Honourable Gentleman, would find themselves at a stand.

For the moment, let me take the liberty of proposing for them an analogous, though a somewhat different exercise.

By the taxes, as they stand at present—(I presume it is out of taxes, and not out of heaven-dropped manna or heaven-dropped quails, that, according to his plan, the *noble* and the *respectable* provision would be to be made)—by the taxes, as they stand at present, a certain number of families are every year pressed down from a state of independence into a state of pauper and parochially-supported indigence. Now then, for every branch of a noble and respectable family, which by the noble or respectable provision respectively, is kept

above indigence, meaning, that which to the noble or respectable family would have been indigence, how many branches that, without being either noble or respectable, or as yet independent, would be pressed down into that which really is indigence. If *thought* be too much to ask for, a *calculation* of this sort from a right honorable hand, in which figures are so plenty and so much at command, might, at any rate, be not undeserving, it is hoped, of a few figures.

Another exercise for the mathematics of the Right Honourable Gentleman. The *respectable* families, let them for the moment be laid out of the question—let the calculation still confine itself to the *noble* ones.

After observations taken of the rate of the increase given to nobility by his still present Majesty, or even of that part of it that was given with the advice of the Right Honourable Gentleman's departed hero, let him, with *Cocker* in his hand, carry on the increase through a portion of future contingent time. Considering that neither Scotland nor Ireland, nor any thing that is noble in either kingdom, can on this occasion be left out of the account, let him inform us what are the number of years that will have elapsed antecedently to that point of time at which the amount of the provision made on his plan for *noble decay*, will have outstripped that of the provision at the same time made for ignoble indigence.

“ Oh, but you are confounding *classes*—you are confounding *species*. This is the way with you *jacobins* and you *levellers*. You confound every thing. The noble and respectable families are of *one* species: the ignoble and unrespectable families are of *another*. The ignoble and unrespectable families are of the species that *are sent* to *Walche-*

ren; the noble and respectable families are of the species that *send them* there. The families whose branches are to be preserved from decay, are those whose *feelings* have a right to be consulted: the families that are to be helped on in the road to ruin, are those whose feelings have no such right."

A smile beams on the countenance of the Right Honourable Gentleman. He calls for his *extinct peerage*: he foresees his triumph: he beholds the confusion of the jacobin; when, at the end of the calculation, it has been made as plain as figures can make anything, how many centuries will have elapsed before any such outstripping can have taken place.

Well then; having, by the success of the operation thus performed upon the *noble* families, given vigour to his hand, let him try it upon the *respectable* ones.

What has just been seen, is what the Right Honourable Gentleman has not anywhere said. True;—but it is what (I fear much) from the beginning of his pamphlet to the end of it, is but too much like what he has thought.

"Something"—(says the Right Honourable Gentleman, such is his candour) "something must certainly be allowed for mere favour." Good sir, you already forget your own argument: it is all mere favour, or it is none. "Decay," not service; "decay," not merit in any shape, real or imagined, was your title: decay, by what cause soever produced, as well as in whatsoever quantity; produced by eating and drinking,—produced by carrying about seraglios in foreign missions,—produced by horse-racing,—produced by dice or E. O.; is decay less decay? Is nobility the less noble? Is respectability (I mean your sort of respectability—the respectability which consists

in having or spending money of one's own or other people's) the less respectable?

Talk of justice and injustice. So long as any *one* individual is, whether on the score of *nobility*, or of *respectability*, preserved in this way from decay, it is not mere disfavour, it is no better than mere *injustice*, to refuse it to any *other*.

“But where the instances are clearly improper, and it is not meant,” continues the Right Honourable Gentleman, “to contend that there are no such, they are at least open to public animadversion.” Good sir, once more your candour carries you too far. What *you* do not mean to contend for, I must, even I; indeed, sir, there are not any such *instances*: your principle admitted, there *cannot* be any.

“*They are at least open to public animadversion.*” Your pardon, sir; indeed they are not. *Individually* they are not: they are not common: to the “public” two things altogether necessary to the purpose are wanting, viz. *information* and time. Mr. Brown has 1200*l.* a year: two Miss Vandals have 600*l.* Who knows who this Mr. Brown or those Miss Vandals are? At the moment when the necessity of providing for noble or respectable decay in the person or persons of this Mr. Brown or these Miss Vandals, has by some noble or right honourable person been whispered into the royal ear, the whisperer knows: but the next moment nobody knows. Even now there are more of them than the public patience can endure so much as to *count*: and shall we talk of *scrutiny*? More than can be so much as counted even now! and what shall we say when, your principle being in full operation, there are with us in England, as you know when there were in France, enough of

them to fill a *red book*, and *that*, like the army list, no small book, of themselves.

No, sir; individually open to public animadversion they are not, even now: much less at the time in question would they be. But in the lump, in the principle on which they are proposed to be multiplied, and that to infinity, they are "*open to animadversion*:" and on this consideration it is that the presumption, betrayed by the present weak and inadequate attempt at "*animadversion*," has found its cause.

On the *wing*, who can think to catch, who can so much as follow, all such wasps? But in the *egg*, if the people have but spirit enough, they may be crushed.

"Something" (says the candour of the Right Honourable Gentleman) "must be allowed for mere *favour*." Yes: and something must also be allowed for an affection of an opposite nature. This candour of his shall not go unrequited: it shall be paid for in the same coin. If *profusion* be, as it appears to be, all that is meant by "the abuse," a check that abuse "*certainly*" has;—and that check but *too* "*certainly*" is "*considerable*," though unhappily it is far from being "*an effectual*" one. Of itself, *profusion*, were that the whole of the disorder, would have no check: but, complicated as it is with another disorder, *corruption*, in that other disorder, odd as the case may seem at the first mention of it, it does find a sort of a check: the *diarrhæa* finds in the *septic* diathesis a sort of astringent.

The paradox will disappear immediately. When it happened that the Right Honourable Gentleman, by whom the case of the *sprig* of *decayed nobility* or *respectability* had been submitted to royal "ge-

nerosity" or royal "justice," had been voting on the *improper* side, the instance (could any such hopeless intrusion be supposed on the part of the Right Honourable Gentleman) would be one of the *clearly improper* ones, and the decay would be left to its own natural course. When so it happened that on all occasions the patron had *properly* understood, as in duty, I mean in loyalty, every such patron is bound to understand, what on each occasion is the proper side, the decay would find its *proper* preservative, and the profusion would be left to the operation of that check, with the virtue of which the Right Honourable Gentleman is so nearly satisfied; I mean, that "*certainly considerable, if not effectual check*" against abuse, which is "afforded" by the pensions forming, when the mischief is past remedy, part and parcel of that almost completely unintelligible, and effectually inscrutable, mass of information or non-information, which is "now" "*so regularly laid before parliament.*"

SECTION IV.

PLEA 3.—NEED OF SUBSISTENCE FOR OFFICIAL PERSONS.

3. A THIRD plea is that which is composed of the alleged non-excess, or even insufficiency, of official incomes.

"If we look to official incomes, it will be found they are in most cases" (says the Right Honourable Gentleman) "barely equal to the *moderate*, and even the *necessary* expenses of the parties: in many instances they are *actually* insufficient for these."

Under the modest guise of a plea *against retrenchment*, we have here a plea *for increase*, and that again an inexhaustible one.

In this plea, *two* points present a more particular call for observation.

One consists in the *indefiniteness* and thence in the *universality* of the terms by which the *incomes* in question, and thence the *incomists* are designated. By "*official incomes*," unless some word of limitation be annexed—and no such word is annexed—must be understood *all* official incomes. Less than *all* cannot be meant; for, if anything less be meant, the argument falls short of its undissembled purpose. In most cases, scantiness being asserted, and in many, insufficiency—and that even without a view to the single purpose of a bare subsistence, whether there be any of these incomes that are *more* than "barely equal" to that object, is left to conjecture.

2. The other the word *necessary*, viz. in the application here made of it to a mass of expenses that are to be defrayed at the public charge: an aggregate composed of the several individual expenditures of all these several official persons; and when the present Mr. Rose comes to be in the situation (poverty excepted) of the late Mr. Pitt, let any one calculate, whose skill in calculation is equal to the task, how many are the hundreds of thousands, not to say the millions, a year, that will depend on the construction of these two words.

To assist us in this calculation, an example, though unfortunately but one, has been afforded us by the Right Honourable Gentleman: and, so far as this carries us, it will appear that, even where by the frugality of the Right Honourable Gentleman, it is confined to what is "*necessary*," (the inflexibility of this virtue not suffering it to rise

to so high a pitch as even to be "*moderate*") what, in speaking of an official person, is meant by his *expense*, is composed of the official income, whatever it be, which he finds provided for it by law, together with a capital to the amount of between eight and nine years' purchase of it, or reckoning by the year, about 25 per cent. upon it, the person's own patrimony, if he happens to have any, included or not included. But of this under another head.*

SECTION V.

PLEA 4.—NEED OF MONEY FOR MAKING FORTUNES FOR OFFICIAL PERSONS AND THEIR FAMILIES.

4. THE next plea is that which is founded on the alleged necessity of enabling persons in official situations—all persons in all official situations—to provide for their families at the public expense.

"May we not *then* venture to ask" (continues the argument from the passage last quoted)—"may we not *then* venture to ask whether it is *reasonable*, or whether it would be *politic*, that such persons should, after spending a great part of their lives with *industry, zeal, and fidelity*, in the discharge of trusts and public duties, be left afterwards without reward of any sort, and their families entirely without provision?"

The skill of the Right Honourable Gentleman in *arithmetic* is above, far above, dispute; but, if we may venture to say as much, his *logic* seems to be not altogether upon a par with it.

* Chap. 9.

His *antecedent*, as delivered in the last preceding sentence, is, that the “official income” of the official man is “in many instances insufficient,” even for his necessary expenses, meaning his necessary *current* expense; and in this next sentence the *consequent* or *conclusion* drawn, is that, in plain English and to speak out, he ought to be enabled to make his fortune always at the public expense; and that to so good a purpose, that after his decease his family may in respect of current expenses, so long as it continues, find itself—in what plight? in the same plight (we are left to conclude) or thereabouts, as its founder, the official man himself.

As to the being preserved as long as it lasts, preserved in all its branches, from decay, that any such provision would be short of the mark, though not to what degree short of the mark, is what we are assured of; for if the family of an official person be a respectable family, (and if not, what family can be a respectable one?) if this be admitted, “trusts,” or no trusts, “public duties,” or no public duties; the being kept in a state of perpetual preservation from decay is a right that, in the preceding paragraph, has been claimed for them by the Right Honourable Gentleman’s “generosity,” supported by his *justice*.

The form of the argument is indeed rather of the rhetorical than the logical cast—*May we not venture to ask?* The answer is, good sir, no apology—ask boldly; but ask one thing at a time. First, let us make up the deficiency in respect of current and present expenses, and as the supply we are to provide for these “discharges of trusts and duties” is to keep pace with their expenditure—with the expenditure of each and every of them (for your “generosity” makes no exception) “*may we not then venture to ask,*” on our parts, for a little breath-

ing time? If so, then, after we have taken breath a little, will be the time for entering on the further employment you have found for us: viz. the making provision for the families of those official, and *therefore* meritorious persons, whose "*industry, zeal, and fidelity,*" as we have not the honour of being acquainted with them, it is impossible for us to dispute.

To this industry, zeal, and fidelity, the "reward" which your generosity and justice, your reason and your "policy" have in store for them, is doubtless to be proportioned: for otherwise those virtues of theirs would, as to a part of them more or less considerable, be left without reward—(virtue left without its reward!) and as, in the estimate to be formed of the degree in which these several virtues will, by the several official, and therefore meritorious, persons be displayed, your "*policy,*" under the guidance of your "*generosity,*" will not find itself under any restraint; the quantity of the reward will be as little in danger of finding any such limits, as would pinch and straiten it.

The "insufficiency" of their respective "official incomes," for the respective "necessary expenses" of these officially industrious, zealous, and "faithful" persons—as such is the title on which the "generosity," "justice," "reasonableness," and "policy" of the Right Honourable Gentleman rests their right to have their "necessary expenses" defrayed for them, and at the same time their fortunes made for them; and as no other man can be so good a judge of what is necessary for a man as the man himself is, there is a sort of comfort in the reflection—how small the danger is, that, upon the principles and plans of the Right Honourable Gentleman, virtue, in any such shape at least as that of "*industry, zeal, and fidelity,*" (meaning always official ditto) will be left without

its reward. Having got your official situation, you spend in it so much a year as you find necessary. Having so done, thus and *then* is it that you have entitled yourself to the benefit of the Right Honourable Gentleman's conclusion—his logical conclusion, embellished and put into the dress of a rhetorical *erotesis*;—that you are entitled to receive out of the taxes as much more as will secure to your “family” that “provision” which, in virtue of your “*industry, zeal, and fidelity,*” speaking without partiality, or with no other “*partiality*” than that which, according to the Head-Master* in the school of official economy is a kind of justice, it appears to you to deserve.

After so exemplary a pattern of diffidence as has been set by a Right Honourable Gentleman, whose grounds for confidence are so manifest and so unquestionable, a plain man who feels no such grounds, nor any grounds, for any such pleasurable sensation, can scarce muster up enough of it to put a question of any kind, for fear of being thought encroaching: but, if any one would save me harmless from that charge, I would venture to ask whether it may not have been by a too unqualified adherence to these principles, a too rigid adherence to these precepts, of the two great masters, and without taking the benefit of those precautionary instructions, which the prudence or even the example of one of them might, if sufficiently studied, have furnished them with, that their Right Honourable friend Mr. Steele, and the Honourable Mr. Villiers, and till the other day Honourable Mr. Hunt, and the Gallant General Delancy, and the “*industrious, zealous, and faithful*” Mr. John Bowles, with *his* et cæteras, and so many other et cæteras, were led into those little inaccuracies, which time after

* Burke, p. 65.

time have afforded matter of so much, though happily as yet fruitless, triumph to Jacobins, levelers, and parliamentary reformers?

It is necessity alone, and not inclination, that in the performance of the task I have set myself in the school of economy, so frequently imposes upon me so great a misfortune as that of being seen to differ from so great a master as the Right Honourable Gentleman: and accordingly wherever I am fortunate enough to be able to descry between us anything like a point of coincidence, it is with proportionable eagerness that I lay hold of it, and endeavour to make the most of it.

His plan is—that “official persons,” among whom, for the purpose in question, he includes (I presume) persons proposed or proposing themselves for official situations, should determine for themselves what mass of emolument is sufficient for their own expenses, and what for the expenses of their respective families, in present and in future. Now, thus far, this is exactly my plan. Thus far then we are agreed; but now comes the unfortunate difference.

My plan (it will be seen) is, that having formed his own calculations, each candidate, in taking his determination, should take it once for all: and moreover, that, as in the case of *stores*, in which instance, instead of skilful labour itself, the produce of skilful labour has, with such well-grounded approbation on the part of the Right Honourable Gentleman, been, ever since the time he speaks of,* regularly furnished for the public service, there should be a “*competition* ;” whereupon that one of them, whose judgment concerning what is sufficient for *him and his*, is most favourable to the public interest, should (unless for, and to the ex-

* Pp. 29, 30.

tent of, special cause to the contrary) be accepted.

Thus far my plan. But, according to the Right Honourable Gentleman's, the accepted candidate, who without any such competition is to be accepted, viz. in consideration of that "*industry, zeal, and fidelity*," which will be so sure of being found in him—this accepted candidate, after his calculation has been formed, and the office, with its emolument, taken possession of, is to have the convenience of remaining at liberty to correct by the light of experience (as we shall see* the illustrious chief and pattern of all official men did) any such errors as the calculation shall, from time to time, have been found to contain in it. By this practical test, having ascertained what is "*necessary*" for his own present expenses, he will have put himself in a condition to determine, and ought accordingly to stand charged with the "*trust and duty*" of determining, what further provision will be necessary for the "*necessary expenses*" of his family, considered in its several branches, present and future contingent, for and during the continuance of that portion of time called *future time*.

Another unfortunate difference is—that according to my plan, no exclusion, either express or implied, is put upon such candidates to whom it may happen to have property or income of their own: unable as I am to discover any such office, for the "*trusts and duties*" of which, any such property or income can reasonably be considered as constituting, in any point of view, a ground of disqualification, or to understand, how it can be that a hundred a year should, in the case of its be-

† *Infra*, § 9.

ing a man's own *private* money, go less far towards the defraying the "*necessary expenses*" of *him* and *his*, than if it were so much *public* money, received in the shape of official emolument out of the public purse. What, in regard to *my* official man, my plan accordingly assumes, is,—either that he has more or less property or income of his own, or (what in my view comes to much the same thing) what, if any thing, remains to the official situation, after the offer made by him, in relation to it, has been accepted, is, in his own judgment, sufficient for his "*expenses*," "*necessary*" and unnecessary, upon every imaginable score.

Of this assumption, that which seems all along to have been proceeded upon by the Right Honourable Gentleman's plan, is exactly the reverse.

True it is, that no *disqualification Act*, excluding from official situations all such persons as shall have either property or income, is any where proposed by him ;—no, nor is so much as any recommendation given by him to the wisdom of the Crown in the choice it makes of persons for filling these situations, to act as if a law to some such effect were in force. But, all along, the supposition proceeded and argued upon by him is,—that there exists not in the quarter in question, any such relatively superfluous matter: a state "*entirely without provision*" is the state in which "*afterwards*," to wit, after "*a great part of his life spent*" by the official person "*in the discharge of trusts and duties*," his "*family*" is spoken of as being "*left*:" and it is upon this supposition that at least the "*policy*" of the Right Honourable Gentleman (not to speak of his humanity) grounds itself in the appeal it makes to that same endowment, which he beholds as fixed in the breasts of those Honourable persons for whose use this lesson

of economy is designed. Would it be "*reasonable*"?—would it be "*politic*"?—are the questions which on this occasion he asks leave to "*venture to ask.*"

SECTION VI.

PLEA 5.—NEED OF MONEY FOR BUYING MEN OFF FROM PROFESSIONS.

5. A FIFTH plea is composed of the alleged necessity of buying off men from private pursuits : in other words, of the want of "*wisdom*" there would be in failing to allow to official men—to all official men—in the shape of official emolument, as much money, at the least, as any body can gain "*by trade or manufactures.*"

"It would hardly" (says he, p. 64) "*be wise, on reflection, to establish a principle, which would have a tendency at least to exclude from the service of their country men likely to be useful to it. Great numbers of those who engage in trade and manufacture (than whom none are held in greater estimation by the author) or who enter into various professions, frequently acquire very large fortunes*" (very true indeed) "*and seldom, if they have talents and perseverance, fail to obtain independence. What fairness, justice, or reason, is there then in marking the character of the official man alone with disrespect, and himself as unfit to have reward in any case, beyond an annual stipend for his labour and services, just sufficient for his current expenses, however faithfully and diligently he may have discharged an important trust for a long series of years?*" "*Surely*" (concludes he) "*it is not unwise or unreasonable that the public*

should be in a situation to *bid* to a limited extent for talents, in competition with other honourable and lucrative professions, and various branches of trade and manufactures."

Thus far the Right Honourable Author:—as for the obscure commentator, perplexity is once more his fate. The Right Honourable Author speaks of a *principle*: a principle which, such as it is, he disapproves of. But what this principle is, the obscure commentator can no otherwise take his chance for declaring aright, than by a very random guess.

The omitting in the instance of an official person to make for his family a provision, such as *he* (the official person) or the Right Honourable Author, or somebody else (and who else?) shall pitch upon as being "*necessary*," and, according to the just-described plan of estimation, *sufficient*? An omission to this effect is it the thing to which, by the style and title of a "*principle*," the Right Honourable Gentleman, "*on reflection*," means to attach the *censure* (for gentle and considerate as it is, it is still a *censure*)—attached to it, viz. by saying of it that "*it would hardly be wise*"? Yes; this must be it; at any rate, it is the nearest approach to it that the perplexed commentator is able to make.

But of this *principle*, which "*it would hardly be wise to establish*," though unfortunately we have no such specific and particular description, as (were it only to save us from wishing to see an unwise principle established) we cannot but wish for, we have at any rate a general description, viz. such a description as is given of it by the designation, its imputed *tendency*;—and that in so many words:—"a principle" (says he) "which would have a

tendency at least to exclude from the service of their country men likely to be useful to it."

Now in this *principle*, if so it be that the perplexed commentator has succeeded in his humble endeavours to pierce the cloud that covers it; in this principle we have another measure of the quantity of emolument which on this single score, not to speak at present of any other—on this one account, viz. that of money to be employed in making the fortunes of their respective families, the Right Honourable Author, did it depend on him, would, in the situation of minister, annex to office,—annex to *every* office.

Let us distinguish what requires to be distinguished. What, under the last head, we learned, was one of the *purposes* for which the official emolument was necessary;—what, under this head, we receive, is a sort of standard of reference, from which the quantity of that necessary emolument may be estimated, and finally set down in figures. True it is that, on the present occasion, not that same purpose but a *fresh* purpose is named and brought to view; *there*, the purpose was, enabling the official man to make his family; *here*, it is—inducing a man, not as yet official, to become such by buying him off from other pursuits; from all pursuits, how lucrative soever, in any one of which, if not thus bought off, it might have happened to him to engage.

But, if the quantity allowed for this fresh purpose (viz. the *buying-off* purpose) be ample enough, (and the necessity of not being niggardly on this score will be no secret)—the consequence is, that by the help of a little economy, such as at the hands of so enlightened a professor of economy it might not be too much to venture to ask for, one and the

same mass of money might be made to serve both purposes. The reason is—that on the occasion of the two purposes, two different *periods* are in question: viz. that of *possession*, and that of *expectancy*. When actually in possession, whatsoever it be that is necessary to a man, for the good purpose (whatever it be) which is in question (making a family, for example, and so forth) *that* it is that he must have in hand. But, *before* he has taken possession, and till he has taken possession, it is not necessary, how desirable soever on some accounts it might be, that at the public expense he should have any thing. So as you do but give him in prospect, and sufficiently secured, as much as, if in possession, would be, by ever so little, more than any man ever got into possession of by means of trade or manufactures—a million for example—that same million will, when the time comes, be accepted of, upon account at least, as and for the money necessary to make his family. Of this same million, the eventual *possession* being sufficiently secured, the bare expectation will suffice to buy him off from all trades and manufactures in the lump: so that in fact, if when measured according to the standard laid down by this *fifth* plea, the allowance made on the sum mentioned in plea the *fourth* be sufficiently liberal, the advantage mentioned in this same *fifth* plea is so much got for nothing.

Money, it must all this while be carefully kept in mind—*money* is the only sort of matter, which, according to the principles of our Right Honourable Author, is to the purpose here in question; viz. to the purpose of providing recruits for the official establishment, capable of officiating in the character of matter of *reward*. Even so substantial a thing as *power*—*power of management*—*power of patronage*,

—*titles*,—*honours*, not to speak of any such empty bubble as *reputation*—all this, in the estimation of the Right Honourable Author, is, to the purpose here in question at least, without force or value.

Money, therefore, and in the same quantity as if there were nothing else that had any value, is the matter of which the *reward*, or whatever it be that is to constitute a man's inducement to engage in the service of the country, is to be composed.

But, as is very truly observed by the Right Honourable Gentleman, so it is, that in virtue of the money, the prospect of which they present to those who engage in them, there are not only "other honourable and lucrative professions," but "various branches of trade and manufactures," that enter into "competition" with the money, which, in the character of official emolument, stands annexed to official service.

Equally true it is, that every instance, in which, in case of a man's "engaging in any of those non-official lines of industry, and in particular in any branch of trade or manufacture, it might happen to him to get more money than he could by official service, the difference, whatever it may be, has" (to use the words of the Right Honourable Gentleman) "*a tendency at least to exclude from the service of their country men likely to be useful to it.*" True, on the other hand, it is, that the character in which this "tendency" operates, is not that of a *physical bar*: no, nor so much as that of a *penal statute*. It is, however, in the character of that sort of obstacle, the resisting force of which is in his eyes so powerful, that the whole paragraph, with the whole of the deobstruent force therein contained, is devoted to the sole purpose of removing it; viz. by persuading those on whom it depends, so to order matters, that by this

“discharge of trusts and duties” more money may so be got by somebody or anybody, than can be got by anybody in the exercise of any “lucrative profession, trade, or manufacture.”

Now, then, to get the better of so troublesome a thing as this “*principle of exclusion*,” and enable the “*service of the country*” to have as good a chance as “*trade and manufactures*” have, for “*engaging men likely to be useful to it*,” what is then to be done? two courses there are, and in the nature of things but two, by which any such effect is capable of being produced. One consists in lessening the quantity of money capable of being gained in the way of trade and manufactures; the other, in increasing the quantity of money capable of being gained in the shape of official emolument in the way of official service.

To the quantity of money capable at present of being gained in trade or manufactures there are no limits. A million or more one hears spoken of as the amount of the money gained in this or that instance, and even from no very considerable beginnings: of half that money or thereabouts one hears of in numbers of other instances. Fixations of this sort must remain exposed, not only to original uncertainty, but to continual variation. By a select committee, with the Right Honourable Gentleman at the head, this point, however, is one that needs not despair of being settled: settled, if not with mathematical exactness, at any rate with that rough degree of precision which is sufficient for practice.

True it is, all this while, that on behalf of the public—that public which he has thus taken under his protection—the sum which the Right Honourable Gentleman requires for this purpose is but a “*limited*” sum. To enable the public to maintain,

on the occasion in question, the proposed "*competition*" with so formidable a host of competitors as the "*other honourable and lucrative professions, and various branches of trade and manufactures,*" all he asks is—that it "should be in a situation to bid to a *limited* extent."

But, the *limits* here alluded to—at what point shall they be set? If set at a sum, the effect of which will leave to these rival pursuits so much as a "*tendency* to exclude from the service of their country men who are likely to be useful to it," they will "*exclude,*" from the faculty of regulating practice on this head, the Right Honourable Gentleman, with those "*wise*" principles of his which he is thus supporting against the *unwise* ones he complains of.

For a *maximum*, beginning with the highest situation, shall we, to make sure, say, for example, a couple of millions, to be laid up over and above "*his necessary current expenses,*" by an official person who, with that "*industry, zeal, and fidelity,*" the union of which the Right Honourable Accountant gives him credit for, as a matter of course, shall, in that highest situation, have spent in the "*discharge of trusts and public duties a great part*"—say for example five and twenty years—of his life.

For our *maximum*, taking then these two millions, or even so scanty an allowance as a single million, and setting out from this point, shall we proceed downwards till, after the manner of that other *state lottery*, which is commonly so called, we have got for our lottery a number of prizes equal to the aggregate number of official situations?

This is what, "*on reflection,*" the "*wisdom*" of the Right Honourable Gentleman requires us to

do, on pain of seeing “*established*, the principle,” against the “*exclusive tendency*” of which we have been seeing him remonstrate so pathetically: this in short is what we *must* do, unless, embracing the only other branch of the alternative, and going to work in the other quarter, we set ourselves to restrict the quantity of money that a man shall be “*in a situation*” to gain by any of the “*various branches of trade and manufactures.*”

In the “*bidding*,” thus proposed by him “*for talents*,” if on his plan the public service is to have any chance of bearing off the prize or prizes, there remains therefore but one other expedient; and that is, the “*limiting*,” and thus eventually lessening, the quantity of the emolument which men shall have it in their power to make in trade or manufactures.

But this is what the Right Honourable Gentleman would never permit himself to endeavour at. For this would be to “*mark with disrespect the character*”—not now indeed “*of the official man*,” but what in the Right Honourable Gentleman’s estimation would be quite as improper a character thus to mark, viz. that of the *mercantile* man. It would be to stigmatize by this invidious mark “*great numbers of those who engage in trade and manufactures:*”—persons “*than whom none*,” not even the official man himself, “*are by the author*,” (as the Right Honourable Author is himself pleased to assure them) “*held in higher estimation.*” This, then, is the objection to the setting limits to the sum, which a man shall be “*in a situation to gain by trade or manufactures:*” and after an objection thus conclusive it were lost time to look for minor ones.

SECTION VII.

DIGRESSION CONCERNING THE VALUE OF
MONEY.

SUCH, as we have seen, is the course one or other branch of which is, “on reflection,” in the sight of the Right Honourable Author, so necessary, that the omitting to pursue it is considered by him as that which would have the effect of “*marking the character of the official man with disrespect;*” which to do would, as, in the way of interrogation, the Right Honourable Gentleman, with most incontestable propriety, observes, would be to act without “*fairness, justice, or reason.*”

Now as to “*disrespect*” for this *protégé* of the Right Honourable Gentleman—disrespect for him I do protest that I feel none. But, as to the allowing to him out of the taxes all that money which the “*generosity*” and “*justice*” and “*reason*” and “*policy*” and “*wisdom*” and “*fairness*” of his Right Honourable Patron lays claim to on his behalf—without knowing exactly what it is, thus much I know, that so expensive a proof of the absence of disrespect is more than I could afford to pay my share of: mine being one of the “many instances in which *income*,” even though not “*official*,” is insufficient (to borrow the Right Honourable Gentleman’s words) “actually insufficient for *these*.”

What I am therefore reduced to, is—the plea that my declining to do *that*, to the doing of which my limited means are so far from being sufficient, is not a mark of *disrespect* to any body; and by this plea, in so far and so long as it can be

maintained, as I humbly conceive it may be to the very last, without disrespect to the Right Honourable Gentleman, I am determined to abide.

My notion of him (I mean the “official man”) is—that, besides *money*, there are other things that are capable of being objects of his regard: other things that are capable of engaging him to take upon himself the obligations of office, in the words of the Right Honourable Author (of the value of which, when they are to be had, I am too fully sensible to take up with any other) to “spend” even “a great part of his life in the discharge of trusts and public duties:” and in proof of this, regarding *fact* as no bad proof of possibility, I have referred to several most conspicuous, and happily very extensive lines of practice.*

If it be by either of us,—if it be by any body,—that this same “official man” is treated with “disrespect,” I would venture to appeal to every man, in whose eyes there may be anything besides *money* that has a value, whether it is not, by the Right Honourable Gentleman himself, whose sympathy can so ill brook the imputation, and whose imagination paints to him a set of unreasonable people; a set of people, into whose company, spite of all protestations, I cannot but expect to find myself forced;—people who, being sworn enemies to this same officially “industrious, zealous, and faithful” person, exercise themselves in “marking his character with disrespect,” in despite of “fairness, reason, and justice.” (p. 65.)

What the Right Honourable Gentleman *insists* upon—and in a manner much stronger than by *direct assertion*—what he insists upon in the way of *assumption*, is—that upon the mind of his official

* Part I.

person there is nothing in the world but money that is capable of operating, whether in possession or expectation, with any adequate degree of efficiency, in the character of "*reward*."

Now, in regard to this same sort of person, my notion is quite opposite:—quite opposite, and so determinately so, that the supposed contrariety of his disposition to the character given of him by the Right Honourable Gentleman, is all that that plan of mine, which has so often been alluded to, has to ground itself upon.

Money, money—nothing else, Sir, is of any value in your eyes. . . .

Many things there are, Sir, besides money, that have their value in your eyes. . . .

The first is the language in which this respectable person is addressed by the Right Honourable Gentleman, his declared patron. The other is the language in which he is addressed by the *obscure* man, his supposed enemy.

In which of these two modes of address is there most of *respect*, most of "*disrespect*?"—Gentle reader, judge between us.

For my part, the former mode of address is one that I could not prevail upon myself to use to any man; no, not even to the Right Honourable Gentleman himself; not even his own licence, clear as it is,—not even his own express command would prevail upon me; neither *to* him, nor *of* him, could I prevail upon myself ever to say any such thing: for I do not, no, *that* I don't,—I would say it to his face—believe it to be true. I beg pardon for the seeming contradiction that I put upon what he says: I mean not anything of disrespect to him in this shape, any more than

in the other. I mean not that, should he absolutely insist upon giving any such account of himself, he would, *at the moment*, be saying *that* of which he would be conscious of its not being true. All I mean is, that if such be his opinion of himself, he does not do himself justice: that, for want of leisure, engrossed as his attention has been by the “discharge of trusts and public duties,” he has not looked closely enough into a subject—a human subject—which if he were to become a little better acquainted with it, than he appears as yet to be, might afford him more cause of satisfaction than he seems to be aware of.

Yes, on this ground, defend him I will, though it be against himself, and, fierce as his attack upon himself is, it is not pushed with so much skill, but that I will make him parry it.

For this purpose, I do insist upon it—I will take no denial—that he shall look once more at the last of his own pages but one. After reading, marking, and learning them, that “the most degrading corruption of a statesman, or his friends, is indeed by the influence of money,” he will find it written—and that immediately after—that “public men may be corrupted by *the love of power*, as well as by lust of gain.” Now, then, if by this same love of power men may be “*corrupted*,” by this same love of power, (I say) they may be *operated upon*; and if operated upon to a *bad* purpose, so may they, and (let us hope) still more easily and effectively, to a *good* one: for when operated upon to a bad purpose, they must be strange men indeed if they do not find themselves operated upon, with how little force and effect soever, by some principle or other, in a *counter direction*: in a counter direction by some principle or other, call it *fear of disrepute*,

call it *conscience*, call it what you please*—which they would find acting, not in *opposition* to, but in *concert* with, the love of power, in any case, in which the purpose, towards which it operated upon them, and towards which it tended to direct their exertions, were a *good* one.

And is it really any opinion of the Right Honourable Gentleman's, that to the love of power it is impossible to act upon the mind of man in any direction but a *sinister* one? Impossible to act upon it with effect in any other way than by corrupting it?—No; *that* it is not: for if it were, he would shake off from his hands whatsoever, in the shape of power, he felt sticking on them; he would shake it off as he would a viper. Adieu all Treasurerships! adieu even all *Clerkships*! for to the *Clerkship*, even of *Parliament*, though no such troublesome appendage as that of *obligation* has ever been felt cleaving to it and incumbering it, yet (not to speak of *money*,—*that* not being here in question) *power* enough, and in a variety of shapes, might be found thereunto appertaining, if a gentleman happened to be in a humour to make use of it.

Thus it is that in and by every line, I am labouring and toiling to prove, and if possible persuade gentlemen to be of opinion, that the sun shines at noon-day. But why? Only because in and by the argument of the Right Honourable Gentleman the contrary fact is assumed.

* In the *Table of the Spring of Action*, lately published by the author, all the principles in question may be found, with explanations.

SECTION VIII.

PLEA 6.—NEED OF MONEY AS A STIMULUS TO
OFFICIAL EXERTION.

A SIXTH plea, if I understand it right, consists in the alleged need of money for the purpose of serving in the case of official men in the character of a stimulus: to be applied, viz. to men of hereditary wealth and independence, to spur them on to the acquisition of talent, or else to be applied somewhere else, in order to enable us to do without them and their talents, by having better men in their stead.

Of this plea the account I am thus giving, is, I must confess, besides its not being quite so clear as I could wish, a little long-winded; but it is the best I am able to give. Meantime the reader will see whether he can make anything better of it.

“It has always been justly held” (*says the Right Honourable Gentleman) “in a free country, and particularly in this, to be one of its greatest privileges, that the chief aristocracy, as far as relates to the management of its public concerns, *should be an aristocracy of talent and of virtue, as well as of rank and of property; which principle would be destroyed, if remuneration for public services should be withheld; and the community would be deprived of all its advantages. Not only the great offices of state, but some others of most efficiency*” (Secretaryships to the Treasury, perhaps, for instance) “*must then be*” (meaning probably, *would in that case necessarily be*) “confined to men of hereditary wealth and independence; and,

* P. 65.

with all the *proper* respect which *should be* entertained for such men, it must be allowed that, for the acquisition and improvement of talents necessary for the higher offices, the passing occasionally through the inferior situations, and that *principle of activity* which animates men in the attainment, so much more than in the mere possession, of power and station, are much more favourable than the *honours* claimable by descent alone."

The exertions made by the Right Honourable Gentleman, in the endeavours he uses to prevail upon himself, and enable himself, to pay whatever respect it may be "*proper*" to pay to men of a certain description, present an edifying spectacle. It is what he has been trying at, and labouring at throughout the whole course of his paragraph, (which, as the reader feels, is not a very short one) and after all without having any great success to boast of. Stationed, and for so long a course of time, close to the very door of the Cabinet, though not yet on the right side of it—seeing the *Duke of Portland* every day, seeing the *Earl of Liverpool*, seeing the *Lord Viscount Castlereagh*, son and heir-apparent to the Earl of Londonderry, seeing the *Earl of Westmoreland*, seeing the *Earl of Chatham*, seeing *Earl Camden*, seeing the *Lord Mulgrave*—(seeing in a word almost everybody that is worth seeing) all of them not only "men of hereditary wealth and independence," but even nobles of the land—among all those great men there is not one, no not one, whom he has found it possible to "hold in any higher estimation" than great numbers of those who engage in trade and manufactures. I mean antecedently to the exertions betrayed or displayed in this present paragraph; and how small the progress is, which in this same paragraph he has succeeded in making, let this same paragraph itself declare.

His Majesty, for whom also the Right Honourable Gentleman (I will be bound for him) has all along been labouring, and with at least equal energy, to entertain “*all the proper respect which should be entertained for*” him, all these great men, his Majesty, or *those whose estate* (as the lawyers say) *he hath*, were, at one time or other, at the pains of decking out with *titles*, and even some of them with *ribbons*: yet after all, and upon so good a judge of merit as the Right Honourable Gentleman—one moreover who has had such good and such near opportunities of observation—so inconsiderable has been the effect that has been produced at all this expense—that “in the estimation” of the Right Honourable Gentleman, they are still so unfortunate, every one of them, as not to occupy any higher place, than is occupied by, alas! alas! “great numbers of those who engage in trade and manufactures.”

Of the difficulties which he had to struggle with, in his endeavours to find or make any higher place for them, the magnitude is betrayed (shall we say?) or manifested, in every line: as is likewise, when all is over, the delicacy with which, to the very last, he avoided giving any direct expression to that conclusion, which having, in an unlucky moment, before the commencement of this paragraph, burst out unawares, had, throughout the whole course of it, been labouring once more to find vent and utterance. Of all these great men, if we may take the word of so good a judge, there is nothing to be made without money; nor, if it were “proper” to speak out, any great matter even with the help of it: especially in comparison of some other great men that he knows of, who, “*for the acquisition and improvement of talents*” necessary for the higher offices—including a consummate skill in the application of the four rules of arithmetic,

and without wasting time upon any such speculative and theoretical science as logic, have had the benefit of “passing *occasionally*” (*pour passer le tems*, as the French say) “through the inferior situations.”

When the antagonists whom the Right Honourable Gentleman has to contend with, are the offspring of his own genius, they give him little trouble.

In his 62d page we find him setting to rights a set of men (but whether these were “among his reasonable and candid men” that he had just been meeting with, I cannot take upon me to be certain) a set of men, however, of some sort or other, according to whose conception, the *whole* amount of what is levied on the people by taxes, goes to pay “sinecures and pensions:” from which, if true, it would follow that, on so simple a condition as that of suppressing these nuisances—taxes, those still greater nuisances, might be cleared away at any time. But that any such conception is a misconception, and “consequently, although there were no sinecures or pensions, there would still be taxes,” he proves immediately beyond all dispute; and his antagonists, let them be ever so “reasonable,” have not a word more to say for themselves.

This misconception being set to rights in that his 62d page, here again in his 66th page we find him employed in instructing and undeceiving another set of men, or perhaps the same set in another dress, who are for “*withholding remuneration*” (meaning nothing less than *all* remuneration, howsoever ashamed they may be to say so) “for public services.”

A strange set of men they are whoever they are—and what is to be done with them? The course he takes with them (and if he does not

convince them, he at least reduces them to silence) is, the setting them to think of a “principle,” which he knows of, and which, if such remunerations were withheld, *would*” (he says) “be destroyed: and the principle once destroyed,” “the community” (he concludes with an irresistible force of reasoning) “*would be deprived of all its advantages.*”

Now, if so it be that he really knows of any such men, it is pity but he had told us where some of them are to be seen: for as a raree-show they would be worth looking at. I, for my part, jacobin as I suppose I am,—I, for my part, am not one of them. And this too I am happily enabled to prove: having, for a particular purpose, proposed some good round sums to be disposed of in this way; and *that* according to another plan, in my opinion of which, every day I live confirms me.

Of the only sort of thing which in his account,—at least while this paragraph lasts,—is of any value, viz. *money*, my plan (I speak now of that which relates to the present subject) goes somewhat further than any other which it has happened to me to see, in reducing the quantity to be administered at the public expense: and yet not even in this shape do I propose to withhold it, except in so far as the public service would be performed, not only *cheaper* but *better* without it: and, be the Right Honourable Gentleman’s “*principle*” what it may, I disclaim altogether any such destructive thought, as that of “*destroying*” it.

All this while, a difficulty, which has been perplexing me, is—that of comprehending what sort of an aristocracy this new sort is, the discovery of which has been made by the Right Honourable Gentleman, and to which, exercising the right which is acknowledged to belong to all discoverers,

he has given the name of “*an aristocracy of talent and of virtue.*” Not that by any such description, if taken by itself, any great difficulty would have been produced, but that it is by the sort of relation, which is represented as subsisting between this sort of aristocracy and the sort of thing called *money*, that my perplexity is occasioned.

So far as money is concerned, “*virtue,*” according to what we have been used, most of us, to hear and read of at school, and at college, such of us as have been to college, consists, though not perhaps in doing altogether without money, at any rate in taking care not to set too high a value on it. But, *with* all its virtue, or rather *in virtue* of its very virtue, the aristocracy, which the Right Honourable Gentleman has in view, is a sort of aristocracy, of which the characteristic is, that they will not (the members of it) do a stitch without money: and in their eyes, “remuneration” in any other shape is no remuneration at all: why? because in their eyes, to this purpose at least, nothing whatever but money is of any value.

We have seen who they are that must have been sitting for the Right Honourable Gentleman’s Kit-Cat Club—his “*aristocracy of rank and of property:*” where now shall we find the originals of his “*aristocracy of talent and of virtue?*”

Consulting the works of *Dr. Beatson* and *Mr. Luffman*, the only channels, the periodical ones excepted, through which, in my humble situation, a man can form any conception concerning any such “*great characters,*” I can find no others but *Mr. Percival*, *Lord Eldon*, *Mr. Canning*, *Sir David Dundas*, and a Gentleman (Right Honourable, I presume) who, in *Mr. Luffman’s Table of Great Characters*, occupies at present his 15th column, by the description of “*Mr. G. Rose.*”

Meantime *money*,—meaning *public* money,—being in the Right Honourable Gentleman's system of ætiology, the *causa sine qua non*, not only of "*virtue*," but of that "*talent*" which is found in company with virtue, and being on that score necessary to the constitution of that *one* of the *two* branches of his aristocracy, if it has two, or of the *whole* of it, if it is all in *one*,—what I would submit to him is—whether the task which in entering upon this work, he appears to have set himself, will have been perfectly gone through with, till he has found means for securing to this *talent-and-virtue* branch of his "*aristocracy*," a larger portion of his one thing needful than appears to have as yet fallen to its lot.

Running over, in this view, such parcels of the matter of remuneration as exceed each of them the amount of 10,000*l.* a-year (the only part of the *sinecure list* a man can find time for looking over and speaking to in this view), I find them all, or almost all of them, in possession of the "*rank-and-property*" branch: while the "*talent-and-virtue*" branch, starved and hide-bound, has found itself reduced to take up with the other's leavings.

SECTION IX.

PLEA 7.—NEED OF MONEY FOR THE SUPPORT OF OFFICIAL DIGNITY.

A SEVENTH plea, and the last I have been able to find, consists in the alleged need of money for a purpose that seems to be the same with one, which in other vocabularies is meant by the words "*support of dignity*:"* in the words of the Right

* Finance Committee, 1797-8; do. 1807-8.

Honourable Gentleman (for, on pain of misrepresentation, the very words must be taken where words are everything) “*preservation of a certain appearance.*”

“It is true” (continues he) “that magnanimity and genuine patriotic ambition will look for a nobler reward for their services than the emoluments of office; but in the present state of society, *a certain appearance* is essential to be *preserved* by persons in *certain stations*, which cannot be maintained without a liberal provision.”

From this paragraph, one piece of good news we learn, or should learn at least, if it could be depended upon, is—that the time is now come when “*magnanimity and genuine patriotic ambition will look for a nobler reward for their services than the emoluments of office.*” So late as the moment when the last hand was put to the Right Honourable Author’s last preceding paragraph, this moment of magnanimity was not yet arrived: down to that moment, had “*remuneration*” (meaning as afterwards explained, in the shape of *emolument*) been withheld, “*principle,*” of some kind or other, would have been destroyed—and so forth.

Fortunate is this change for the country, and in particular, not a little so for the somewhat deficient plan here, by an unofficial hand, ventured to be proposed.* Here then we have it;—and from such high and competent authority,—that besides emolument, there is a something, which, in the character of “*reward for their services,*” “*magnanimity and genuine patriotic ambition*” “*will look for:*” and (what is better still) this unspecified something is capable of being received not only in the character of a *reward*, but in the character of a

* The plan here, as elsewhere alluded to, is the plan, the publication of which was suspended as above.

reward of “*a nobler*” sort than emolument—that *sine quâ non*, without which, till this paragraph of the Right Honourable Gentleman’s was concluded, or at least begun upon, nothing was to be done.

Having this, I have all I want, and (as will be seen, and as I hope has even been seen already) even more than I mean, or have any need to use.

Unfortunately for me, no sooner has the Right Honourable Gentleman’s wisdom and candour and discernment obtained from him, and for my use, this concession,—than some others of his virtues, I know not exactly which, join hands and take it back again: and, though no otherwise than by *implication*, yet—so necessary to his argument is this implication—that, if he had taken it back in *direct* words, he could not have done more than he has done, if so much, towards depriving me of the benefit of it.

“But,” (continues he, and now comes the retractation) “a *certain* appearance is essential to be preserved by persons in *certain* stations, which” (meaning probably “*which appearance*”) “cannot be maintained without liberal provision.”

“In *certain* stations, a *certain* appearance”—Nothing can be more delicate,—nothing at the same time more commodiously *uncertain*,—than this double *certainty*. Meantime, if, in the meaning of the whole paragraph there be anything certain, it appears to me to be this: viz. that on behalf of “*the magnanimity and genuine patriotic ambition*” which the Right Honourable Gentleman has taken under his protection, what he claims is—that, in the account *debtor* and *creditor*, as between service and reward, this reward which, not being emolument, is *nobler* than emolument, (meaning by *nobler*, if anything at all be meant by

it, that which, in *their* estimate at least, is *worth more*) is to be set down as *worth nothing*: and accordingly, that the quantity of the matter of reward, which each official person is to have in *the less noble*, but *more substantial* and tangible shape, is to be exactly the same as if there were no other reward, either in their hand, or within their view.

To my plan however, with its weak means of support, so necessary is the concession thus plainly, though but for the moment, made by the Right Honourable Gentleman, that with my good will, he shall never have it back again. *Power* then has its value: *reputation* has its value: and this, for the moment at least, has been admitted by Mr. Rose. By Mr. Rose's evidence—by the weight of Mr. Rose's authority—I have proved it. And now is my time for triumphing. For though neither he, nor any other Right Honourable Gentleman, ever took his seat in any moderately full *House of Commons*, nor ever attended a *Quarter Sessions*, without seeing before him gentlemen in numbers, whose conduct afforded a still more conclusive evidence of the same fact, than any verbal testimony they could have given, even though it were in black and white,—(*magistrates*, by the labour they bestow without emolument in the execution of their office,—*members*, by the expense which, lawfully or unlawfully they have been at in obtaining their *unemolumented* seats)—yet such is the weight of *his* authority, and to my humble plan, so strong the support it gives, that, having seized the fortunate moment, and got possession of the evidence, I can do no less than make the most of it.

Now then (say I) whatever it be that these valuable things are worth, so much, in the account as between *reward* and *service*, let them be set down

for: nor shall even the ingenuity of the Right Honourable Gentleman enable him to object any want of “*fairness*” to my estimate, leaving, as my plan does, to his *protégé* (the proposed official person himself) to make out his own estimate:—to fix his own value upon the *non-emolumentary* part of his reward. The more he chooses to have in the *more* “*noble*” shape, the less may he be content to receive in the *less* noble shape: how much he will have of each rests altogether with himself: and, so long as,—with its *bitters* in one hand, and its *sweets* in the other,—the office cannot upon my plan be put into his hands without his own consent, what ground for complaint anybody can make for him, is more than I can see.

“*Certain appearance?*” For what *purpose* is it that this *certain appearance*, whatever it be, is so “*essential to be preserved?*”—Is it for *commanding respect?*

In *common* arithmetic—in the sort of arithmetic that would be employed in a plain man’s reasoning, be the article what it may—respect or anything else—if there be divers sources or efficient causes of it,—*money*, for instance, and *power* and *reputation*,—to command the necessary or desirable quantity, whatever be that quantity, the more you have from any one source, the less you need to have from the others, or from any other.

“In the present state of society” (for it is to *that* that the Right Honourable Gentleman calls for our attention) unfortunately for us vulgar, this arithmetic,—this vulgar arithmetic,—is not the arithmetic of “*high situation:*” it is not the arithmetic of *St. James’s*: it is not the arithmetic of the *House of Lords*: it is not the arithmetic of the *House of Commons*; it is not the arithmetic of the *Treasury*: it is not the arithmetic of *Office*,

—of any office, by which a more *convenient* species of arithmetic can be employed instead of it. In particular, it is not (so we learn, not only from this paragraph, but from the whole tenor of the work of which it makes a part) the arithmetic of the *Navy Treasurer's Office*. According to this *higher* species of arithmetic, the more you have been able to draw from *any one* of these same sources, the more you stand in need of drawing from *every* other. *Power*, not *indigence*, is the measure of demand.

Have you so many hundred thousands of pounds in money? having this money you have *power*. Having this *money* with this *power*, it is “*essential*” you should have dignity. Having this dignity, you have that which requires money—more money—for the “*support*” of it. *Money, Power, Dignity; Money, Power, Dignity*,—such, in this high species of arithmetic, is the everlasting circulate.

Are you in a “*certain station*?”—Whatsoever you have *power* to spend, and at the same time *inclination* to spend, this is what the Right Honourable Treasurer is ready to assure you, it is “*indispensably necessary*” you should spend. This is what, if your patience will carry you to the next section of this humble comment, or to the next page of the Right Honourable text, you will see stated by the Right Honourable “*discharger of trusts and public duties*,”—and in terms, of which, on any such score as that of want of distinctness or positiveness, no just complaint can be made.

SECTION X.

PLEA 8.—CONCERNING THE LATE MR. PITT'S
EXPENDITURE—THE IMPROPRIETY OF ECO-
NOMY HOW FAR PROVED BY IT.

IMMEDIATELY upon the back, and as it should seem for the more effectual ascertainment, of this so unfortunately uncertain, though double certainty, comes the grand example already above referred to: that one example,—in which we are to look for whatsoever explanation is to be found, for whatever is not inexplicable, in the Right Honourable Author's theory. And this example proves to be the rate, and quantum, and mode of expenditure (private expenditure) observed and here stated by the Right Honourable Gentleman in the instance of the late Mr. Pitt.

“That great statesman” (says he*) “who was ‘poor amidst a nation's wealth,’ whose ambition was patriotism, whose expense and whose economy were only for the public, died in honourable poverty. That circumstance” (continues he) “certainly conveys no reproach upon his memory; but when he had leisure to attend to his private concerns, it *distressed* him seriously to reflect that he had debts, without the means of paying them, which he could not have avoided incurring, except from a *parsimony* which would have been called meanness, or by accepting a remuneration from the public, which his enemies would have called rapacity; for he had no expense of any sort that was not *indispensably necessary*, except in *improvements* in his country residence, where his house was

* P. 67.

hardly equal to the accommodation of the most private gentleman."

That the logic of our Right Honourable Author is not altogether so consummate as his arithmetic, is a suspicion that has been already hazarded: and here perhaps may be seen a confirmation of it.

The proposition undertaken by him to be proved was a pretty comprehensive one; its extent not being less than the entire field of office, considered in respect of the several masses of official emolument comprised in it. This it was that he took for his *subject*: adding for his *predicate*, that these incomes were and are not one of them sufficient, —not one of them, *all things considered*, sufficient to all purposes.*

For proof of this his *universal* proposition, in so far as it is in the nature of *example* to afford proof, he gives us *one* example: *one* example and but one. The one office, in the instance of which, if insufficiency of emolument be proved, such insufficiency is to be accepted as proof, and that *conclusive*, of equal or proportionable insufficiency in the case of all the rest, is the office of *Prime Minister*: an office, the emolument of which is composed of the emolument attached to *two* offices, which, when the parliamentary seat of the official person is in the House of Commons, have commonly been, and in the instance of the said Mr. Pitt were, holden in *one* hand.

* "If we look to official incomes, it will be found they are, in most cases, barely equal to the moderate, and even the necessary expenses of the parties: in many instances they are actually insufficient for *these*. May we not then venture to ask, whether it is reasonable, or whether it would be politic, that such persons should, after spending a great part of their lives with industry, zeal, and fidelity, in the discharge of trusts and public duties, be left afterwards without reward of any sort, and their families entirely without provision?"—p. 64.

To complete the Right Honourable Author's argument, there remains for proof but one other proposition, and *that* is—the insufficiency of this compound mass of emolument in the instance of the said Mr. Pitt: and the medium of proof is composed of this fact; viz. that, being so in possession of this mass of annual emolument, he the said Mr. Pitt spent all this money of his own, together with no inconsiderable mass,—amount not mentioned,—of other people's money besides.

Assuming, what nobody will dispute, that Mr. Pitt died in "*poverty*," that which by his Right Honourable Friend is observed and predicated of this poverty, is, that it was "*honourable*" to him: which being admitted or not admitted, the Right Honourable Gentleman's further observation, that it "*certainly conveys no reproach to his memory*," shall, if it be of any use to him, be admitted or not admitted likewise.

Had this been all, there would certainly at least have been no *dishonour* in the case: a man who has no family, nor any other person or persons, having on the score of any special relation, any claim upon his bounty, whether it be his choice to expend the whole of his income, or whether it be his choice to lay up this or that part of it, nobody surely can present any just ground for complaint.

But, in addition to that which was his own to spend or save, Mr. Pitt having spent money of other people's in round numbers to the amount of 40,000*l.* more: and this mode of expenditure having in so unhappy a way been rendered notorious, rich and poor together having been forced to contribute to make up to this division of the rich the loss they had been content to run the risk of, something was deemed advisable to be said of it.

In strictness of argument, some readers there may be perhaps, in whose view of the matter it might be sufficient here to observe—that, admitting the fact, unhappily but too notorious, of Mr. Pitt's spending other people's money—admitting this fact in the character of a proof, and that a conclusive one, that the mass of emolument attached to the *two* offices he filled was not sufficient for the *one* official person by whom those two offices were filled, the proof would not extend beyond that one pair of offices ; and, the number of offices being unhappily to be counted by thousands, perhaps even by tens of thousands, and this highest of offices, in point of *power*, differing more widely from the general run of offices than perhaps any other that could have been found, the proposition has much the air of remaining in rather worse plight, than if nothing in the character of proof had been subjoined to it.

On this footing might the matter perhaps be found to stand, if viewed in a point of view purely and drily logical. But, forasmuch as, notwithstanding, or rather by reason of, its profuseness, the expenditure of this one official person is by his Right Honourable Friend held out as an example ; not merely as an example for illustration, but as a pattern for imitation:—for imitation by official persons in general,—for imitation in respect of the quantum of emolument necessary to be allotted out of the taxes, and attached to their respective offices,—an observation or two shall here be hazarded, respecting the conclusiveness of the Right Honourable Author's argument with reference to this collateral and practical part of it.

The *wry neck* of the hero having in this way rendered itself too conspicuous to be concealed by any artifice, what was left to the panegyrist was to

make a *beauty* of it. The expense of this repair has surely not been inconsiderable: for here it is not logic only, but morality and policy that have been made to share in it. Our assent being secured for so unexceptionable a proposition, as that, in the circumstance in question, *poverty is honourable*, the next contrivance is to slip in and get the benefit of our assent extended to one other proposition, viz. (as if there were no difference) that *spending other people's money was honourable*; and thus it is that our approbation is to be engaged for the practice and policy of giving encouragement to such *honourable* conduct, by tokens of parliamentary approbation bestowed at the public expense.

"*Necessary*," with its conjugate "*necessity*" and its near of kin "*essential*," are words of no small convenience to the Right Honourable Gentleman: of such convenience, that *that* thing (it should seem) could not be very easy to be found, which the same, being convenient to official persons in official situations, is not, by and in virtue of such convenience, under and by virtue of the Right Honourable Author's system of ontology, rendered "*necessary*."

Even to a man, who had not quite so much as 8,000*l.* a year of his own to spend,* a mode of expenditure, which, in whatsoever degree *convenient*, would (one should have thought) have presented the least satisfactory claim to the appellation of

* As first Commissioner of the Treasury,			
including additional salary	-	-	£5,032 11 0
As Chancellor of the Exchequer	-	-	1,897 15 1

Net receipt together	£6,930	6	1
----------------------	--------	---	---

15th Report from the Select Committee on Finance, 1797, Appendix C. page 20. Add house rent, coals, and candles.

necessary, is that which consists in spending money of other people's.

Two rocks the reputation of the hero found his course threatened by: two rocks, *meanness* and *rapacity*, one on each side: and the expenditure of other people's money—this was the harbour in which, to avoid this *Scylla* and this *Charybdis*, he took refuge.

Had the expenditure of the hero been confined to the sum which by the competent authorities had been deemed sufficient, such limitation would, from the justice of the Right Honourable Panegyrist himself, notwithstanding his "*just partiality*," have received a gentle reprimand couched under the term "*parsimony*," and his imagination has found somebody else to call it *meanness*; had he for those *extraordinary* services which we hear so much of, "*accepted*" as "a remuneration from the public," any of those *sinécures*, which, in such unhappy abundance, he saw lavished on men who could not produce so much as the pretence of even the most *ordinary* service; the same industrious and fruitful imagination has found him friends, in the character of "enemies," to "*call it rapacity*:"—to avoid this charge of meanness it is, that he places himself in a state of dependence under traders of various descriptions,—the butcher, the baker, the fishmonger, not to speak of the political intriguer;—to avoid the charge of rapacity it is, that what he obtains from those people, he obtains from them on the pretence of meaning to pay them, knowing that he has not wherewithal, and nobly, constantly, and heroically determined never to "*accept*" it.

As to distress—while the distress confined itself to those plebeian breasts, this Right Honourable breast knew no such inmate: but when "some

debts pressed so severely upon him as to render it necessary for some of his most private and intimate friends to step in and save him from immediate inconvenience," when, in plain English, he had or was afraid of having executions in his house, then it was that the distress became contagious—then it was that "it distressed him seriously to reflect that he had debts."

When, of a *necessity*, or of anything else, the existence is asserted by a Gentleman, and as of his own knowledge, and that so Right Honourable a Gentleman,—an obscure person—who, having no such honour, nor any chance of producing persuasion, by any other means than such as his own weak reason may be able to supply—has after, and notwithstanding all this form of assertion, the misfortune to feel himself still unsatisfied, it is natural to him to look around him for whatever support may anywhere be to be found:—Parliament—the opinion of parliament—should it be found on his side, will *that* stand him in any stead?

Such as we have seen is the opinion of Mr. Rose. But parliament—on this same point, what is it that has been the opinion of parliament? Why the opinion of parliament is—that, what Mr. Pitt *had* was sufficient: that more than he had was *not* necessary:—was not of that "*indispensable necessity*" which has been brought on the carpet, by the zeal, assisted by the imagination, of Mr. Rose.

Unfortunately for the Right Honourable Panegyrist—unfortunately for his opinions—unfortunately for his assertions—this point, this very point—did, and on the very occasion he speaks of—come under the cognizance and consideration of parliament. The emolument which is found annexed to these two offices, both of which had been held at the same time by Mr. Pitt,—this emolument,

had it been deemed insufficient for the “official man” in question—viz. for the *species* of official man,—would thereupon of course have received an augmentation: in the instance of this official person, the subject would have received those marks of attention, which have so frequently been asked for, and so constantly been given for asking, for in the case of the judges.

Was it that by the case of this distinguished individual, any demand was presented, for any greater mass of emolument than there was likely to be an equally cogent demand for, in the case of any successor of his in the same situation? It seems not easy to conceive a case, in which, all things considered, that demand can ever be so small. True it is, his private fortune was, his station in life considered, barely sufficient for independence. But, he had no wife—no child:—he was in *deed*, as well as in *law*, completely single: and, in the Right Honourable Gentleman’s own arithmetic,—which, on this head, differs not much, it must be confessed, from the vulgar arithmetic,—the demand for money, on the part of the father of a family, is as the number of persons it is composed of.

Over and above his 8000*l.* a year, augmented during half his political life, by his sinecure, to 12,000*l.* what is it that he could want money for?—more money (for *that is here* the question) than would be wanted by or for any of his successors in power and office? Was it to buy respect and reputation with?—Deserved and undeserved together, no man in his place, unless it was his father, ever possessed a larger share of those valuable commodities, than this second *William Pitt*. Had he been in the case of the good-humoured old driveller, who gave so much trouble to Pitt the first, and whom his Majesty’s grandfather was so loth to part with or

suffer to be elbowed,—in that case there would have been on his part a great deficiency in those essential articles ; and if, like *seats*, they had been an object of purchase, and public money the proper sort of money to be employed in the purchase, no small quantity of such money would, in that case, have been necessary.

In the way of experiment—in the endeavour to make this purchase, money, though the man's own, and not public money, was, in the Duke's case, actually employed, and in memorable and still-remembered abundance: but how completely the experiment failed, is at least as well remembered.

To return to the deficiency of the sort in question, supposed to have been, on the more recent occasion, displayed in the same place: this deficiency then,—such as it was and still is—Parliament, in the case of Mr. Pitt, did not, so long as he lived, think fit to supply: at any rate left unsupplied. What was done was—the giving a mass of public money—to the amount of 40,000*l.* or thereabouts—among a set of people, names undisclosed, but said to be the deceased minister's *creditors*. Friends remembered their friendships: enemies, now that the enemy was no longer in their way, forgot their enmity: friends and enemies vied in sentimentality—vied in generosity—always at the public expense: and a justification, yea and more than a justification, was thus made, for the cases of the still *future-contingent* widow of Lord Grenville, and the then *paulo-post* FUTURE widow of Mr. Fox.

Should it here be asked why those trustees of the people chose to saddle their principals with the payment of debts, for which they were not engaged, and the necessity of which they themselves could not take upon themselves to pronounce,—

my answer is—that if anything in the shape of an *efficient, final, or historical* cause will satisfy them, plenty may be seen already:—but if by the word *why* anything like a *justificative* cause—a *rational* cause—a good and sufficient *reason*—be meant to be asked for, I for my part know of none. At the same time, for the support of the proposition that stands on my side of the argument—it being the negative—viz. that for no such purpose as that of encouraging and inducing Ministers to apply to their own use the money of individuals, can it ever be necessary, that money raised by taxes should be employed—for the support of any proposition to this effect—so plain does the proposition seem to me, that neither can I see any demand for a support to it in the shape of a *reason*, nor in truth should I know very well how to go about to find one. Not thus clear of all demand for support is the side taken by the Right Honourable Gentleman. By his vote and influence whatsoever on that occasion was done, having been supported and encouraged, on him, in point of consistency, the obligation is incumbent:—He stands *concluded*, as the lawyers say, in both ways: on the one hand, not having ventured to propose any correspondent addition, or any addition at all, to be made to the mass of emolument openly and constantly attached to the office, he is *estopped* from saying that any such extra expenditure was necessary:—on the other hand, having, in the case of the individual by whom that expenditure was made, concurred in the vote and act* passed for filling up at the public charge, the gaps made by that same expenditure in the property of other individuals, he stands con-

* 46 Geo. III. c. 149. sect. 15.

victed by his own confession of concurring in charging the public with a burthen, the necessity of which could not be so much as pretended.

On this occasion "may we not venture to ask," whether this may not be in the number of those cases, in which Gentlemen, Honourable Gentlemen, under the guidance of Right Honourable, have, in the words of our Right Honourable Author, been "*misled by mistaken ideas of virtue?*" (p. 77.)

Be this as it may, by this one operation which is so much to the taste of the Right Honourable Gentleman—(not to speak of so many other Right Honourable, Honourable, and even pious Gentlemen)—two distinguishable lessons may they not be seen given—two distinguishable lessons given to so many different classes of persons, standing in so many different situations? One of these lessons, to wit, to Ministers; the other to any such person or persons whose situation might enable them to form plans for fulfilling their duty to themselves, by lending money to Ministers.

To Ministers an invitation was thus held out, to expend upon themselves, in addition to whatever money is really necessary, as much more as it may happen to them to be disposed so to employ, of that which is not necessary.

Thus far as to the *quantum*:—and as to the *mode*, by borrowing money, or taking up goods of individuals, knowing themselves not to have any adequate means of repayment, and determining not to put themselves into the possession of any such means.

To persons at large, an invitation was at the same time held out to become *intriguers*; and, by seizing or making opportunities of throwing themselves in

the way of a Minister, to supply him with money, more than he would be able to repay on demand, and having thus got him in a state of dependence, to obtain from his distress—always at the expense of the public—good gifts in every imaginable shape: *Peerages—baronetcies—ribbons—lucrative offices—contracts—assistance in parliamentary jobs*,—good things, in a word, of all sorts, for which, no money being paid or parted with, neither the giver nor the receiver would run any the slightest risk of being either punished, or in any other way made responsible.

By a *loan*, though, for example, it were but of 5000*l.* if properly timed—and that on both occasions—first as to the time of the administering the supply, and then as to the time of pressing for repayment, *that*, may it not every now and then be done, which could not have been done by a gift of 10,000*l.*? How often have not *seats*, for example, been in this way obtained—and this even without any such imputation as that of the sin, the venial sin, of Parliamentary simony?

In virtue of the invitation thus given by the magnanimity and generosity of Parliament,—an invitation open at all times to the acceptance of persons to whom it may happen to find themselves in the corresponding situations—who is there that does not see, how snugly the benefit of bribery may be reaped on both sides, and to any amount, without any of the risk?

A banker is made a Lord—why is a banker to be made a Lord? What is it that the banker ever did, that he is to be made a Lord? A merchant is made a Lord. Why is a merchant to be made a Lord? What is it that the merchant ever did, that he is to be made a Lord?—These are

among the questions which are in themselves as natural, as the answers, true or untrue, might be unpleasant to some and dangerous to others.

We have heard, many of us, of the once celebrated *Nabob of Arcot* and his *creditors*: and the mode in which their respective debts were, to an as yet unfathomed extent, contracted: those debts, which, in so large a proportion, and to so large an amount, just and unjust together, in name the expiring Company, and in effect the whole body of the people, have paid, or, spite of the best possible discrimination, will have to pay.

By the example set, and lesson held out, by the *virtue* of the Right Honourable Gentleman, and his Right Honourable and Honourable coadjutors, the policy of Arcot was it not thus sanctioned and imported into Great Britain? *Ministers, plunge your hands as deep as you can into other people's pockets: intriguers, supply profuse and needy Ministers with whatever they want, and make the most of them: we will be your sureties; our care it shall be, that you shall not be losers.*

Against the opinions of so many great characters—such has been my temerity—over and over again have I laboured to prove, I know not with what success, that *money* is not the only coin in which it may happen to a public man to be willing to take payment of the public for his labour: and that *power* and *reputation*,—though they will not like shillings and half-pence, go to market for butter and eggs,—yet, like Exchequer Bills, within a certain circle, they are not altogether unsusceptible of a certain degree of currency. Of the truth of this proposition, the Mr. Pitt in question affords at least one instance.

It proves indeed something more: for, in so far as purposely forbearing to receive what it is in

a man's option to receive, is tantamount to paying, —it proves that, in the instance in question, the value of these commodities was equal to that of a very considerable sum of money: in round numbers, worth 40,000*l.*—at any rate worth more than 39,000*l.*

Not that in the eyes of the hero, money had no value: for it had much too great a value: it possessed a value greater than the estimated value of common honesty and independence.

He loved money, and by much too well: he loved it with the love of *covetousness*. Not that he hoarded it, or put it out to usury. But there are two sorts of covetous men: those who covet it to keep it, and those who covet it to spend it: the class he belonged to was this *coveting-and-spending* class.

Yes:—*that* he did:—Pitt the second did love money: and not his own money merely, but other people's likewise: loving it, he coveted it; and coveting it, he obtained it.

The debt which he contracted, was so much money coveted, obtained, and expended, for and in the purchase of such miscellaneous pleasures as happened to be suited to his taste. The sinecure money which he might have had and would not have, was so much money expended in the shape of *insurance money* on account of power: in the purchase of that *respect* and *reputation*, which his prudence represented as necessary to the preservation of so valuable an article against storms and tempests from above. Sinecure money to any given amount the hero could have got for himself with at least as much facility as for his Right Honourable Panegyrist; but the *respect* and the *reputation* were defences, which in that situation could not be put to hazard. Of the battles he had

to fight with the sort of *dragons* commonly called *secret advisers*, this bare hint is all that can be given by one who knows nothing of any body or any thing: his Right Honourable *Achates*, by whom he must (alas! how oft!) have been seen in a tottering and almost sinking attitude,—more particulars could doubtless be given, by a great many, than by a gentleman of his discretion it would...(unless it were in a posthumous *diary*, for which posterity would be much obliged to him) be “*useful on his sole authority*”... *to enter into any detail of.*” It was to enable virtue to rise triumphant out of all these trials, that the amount of all this sinecure money was thus *expended*, and without having been *received*.

SECTION XI.

CONCERNING INFLUENCE.

ON the subject of *Influence* (p. 74) what the Right Honourable Gentleman *admits*, is—that owing to the greatly increased revenue, and all the other augmented and “accumulated business of the state,” some increase has, though “unavoidably, been occasioned in it,” viz. by “increase of patronage.” At the same time, notwithstanding this increase, yet, in point of practice, the state of things if we may trust to his conception, is as exactly as if there were no such thing at all as influence. How so?—why, for this plain reason, viz. that “the influence created by such means is *infinitely* short of what,”—viz. “by the measures of economy and regulation to which recourse has been had”—“has been given up.”

Thus far the Right Honourable Author. But in the humble conception of his obscure commen-

tator, the question between the two quantities, one of which is, in the hands of the Right Honourable Accountant, multiplied by one of those figures of rhetoric, which, in aid of the figures of arithmetic, are so much at his command—multiplied in a word to “*infinity*”—this question is not, on the present occasion, the proper one. In regard to *influence*, the question which with leave of the public, the obscure commentator would venture to propose—as and for a more proper one, is—whether, for any existing particle of this influence any preponderant use can, in compensation for the acknowledged evil consequences of it, be found? and if not, whether there be any and what quantity of it left remaining, that could be got rid of? Understand, on each occasion, as being a condition universally and necessarily implied—without prejudice in other respects,—and *that* preponderant prejudice—to the public service.

As to these points, what appears to me,—with submission, is—that, without travelling out of this the Right Honourable Gentleman’s own work, an instance might be found of a little sprig of influence, which, without any such preponderant prejudice to *Mr. Reeve’s tree* might be pruned off.

This work of his (I mean Mr. Rose’s) has for its title “*Observations respecting the Public Expenditure, and the Influence of the Crown.*”

But unfortunately,—as, in due place and time, the candour of the Right Honourable Gentleman himself, in effect, acknowledges, these *observations* of his—and from so experienced an observer—are *all on one side*.

On the subject of expenditure, out of 79 pages, 61 have been expended in showing us what retrenchments have been made, and how great they are. Are they indeed so great? So much the

better: but even yet, considering that if we may believe the Right Honourable Gentleman himself, (p. 62) the whole revenue of Great Britain is "*more than 60,000,000*l.* a year,*" let the retrenchments have been ever so great, the demand for further retrenchment, wheresoever it can be made, without preponderant prejudice to the public service, seems by no means to be superseded.

Subject to that necessary condition, is there any such further retrenchment practicable? This is exactly what the Right Honourable Gentleman has not merely avoided, but positively refused to tell us.

From first to last, this work of his has, according to the author's own account of it, but one aim; and that is, by showing how great the retrenchments are, that have been made already, to stop our mouths, and prevent our calling for any more. Is it then true, that in this way all has been done that ought to be done? Even this not even in terms ever so general, will he vouchsafe to tell us. "To what extent or in what manner it may be proper to press further retrenchments, the author" (says he, p. 62) "has not the remotest intention of offering an opinion: his view has been clearly explained."

Looking for the explanation the clearness of which is thus insisted on, I find it, if I do not mistake, in his last preceding page but one, viz. in p. 60, in which, speaking of this his work by the name of "*the present publication,*"—"In endeavouring to set right the public opinion on this subject, the performance of an act of justice to *any* administration, is" (he says) "but a *small part* of its use; a much *more important* consideration is, its effect in producing that salutary and reason-

able *confidence*, which gives the power of exertion to the government, and that concurrence which seconds its exertions among the people."

Thus far the Right Honourable Author. For my own part, if my conception concerning a government's title to confidence be not altogether an erroneous one, this title depends in no inconsiderable degree on its disposition "*to press further retrenchments :*" (p. 62) I mean of course, in so far as, in the judgment of that government, they are not otherwise than "*proper*" ones. Yet this the Right Honourable Gentleman—a member of this same government, and that in the very next rank to the highest, and receiving (besides sinecure money) no less than 4,000*l.* a year for being so, peremptorily—and as we have seen of his own accord,—refuses to do.

He will not do any such thing: and why not? On this point we might be apt to be at a stand at least, if not at a loss, were it not for the lights with which, in another page (p. 74) the Right Honourable Author himself has favoured us. His "*opinions*" on the subject, he there acknowledges, are "*strong ones;*" but strong as they are, or rather because they are so strong, he will not let us know what they are; because "*on his sole authority,*" that is, unless other opinions that in the scale of office stand yet higher than his, concurred with his, "*it would not be useful:*"—there would be *no use* in it. No use in it? what! not on a subject of such vital importance—when for the declared purpose of "*setting right the public opinion on this subject,*" a Right Honourable Author, who knows all about it, takes up the pen, can it be that there would be no use in speaking what he thinks is right? and as much of it as he

has to speak? No use in his speaking impartially?—in speaking on both sides, and on all sides, what he thinks?

But not to go on any further in thus beating the bush, may we not in plain English venture to ask—at the bottom of all his delicacy, can any other interpretation be found than this, viz. that by those, for whose defence and for whose purposes, and to come to the point at once—under whose *influence* this work of his was written, his speaking as he thinks, and what he thinks right—his speaking out on both sides, would it in his own persuasion have been found not endurable?

If so, here then we have a practical illustration and development of a number of preceding hints. Here we see the character—here we see one effect and use—of that “*aristocracy of talent and virtue*” with which, in the account of remuneration, nothing but money will pass current,—nothing but money is of any value,—and which constitutes so necessary an addition to the “*aristocracy of rank and property*.”

Here we see what is, and what we are the better for, the fruit of “that principle of activity,” (p. 66.) which animates men in the attainment, so much more than in the mere possession, of power and station, “and of that amusement, which, for the acquisition and improvement of talents necessary for the higher offices, gentlemen have given themselves, in passing *occasionally* through the inferior situations.”

“Of the *unpopularity* and *ridicule* that has so often been attempted to be fixed on the word *confidence*,” the Right Honourable Gentleman has, as he is pleased to inform us, according to his own statement (p. 61) had “*some experience*.” One little item, to whatsoever may have been the stock

laid up by him of that instructive article, he may find occasion to make. To that sort of *confidence* which is “*unthinking and blind*,” this “unpopularity and ridicule,” he appears to look upon as not altogether “*inapplicable*,” nor consequently the sort of “*attempt*” he speaks of, viz. that of fixing it on the word *confidence*, as altogether incapable of being attended with success.

But can any thing be more “*unthinking and blind*” than that confidence, which should bestow itself on an official man, howsoever Right Honourable, who, in treating of a subject confessedly of high national importance, and after furnishing, in favour of one side, whatsoever information his matchless experience, his unquestioned ingenuity, his indefatigable industry, can rake together,—and feeling, on the other side of his mind “*opinions*”—and those “*strong ones*,” nor doubtless unaccompanied with an adequate knowledge of facts—of those facts from which they receive their existence and their strength,—should refuse—deliberately, and peremptorily, as well as spontaneously, refuse—to furnish any the least tittle of information from that other side.

Eloquent and zealous in support of profusion, mute when the time should come for pleading in favour of retrenchment, not without compunction let him behold at least one consequence. Destitute of all competent, of all sufficiently qualified, of all officially qualified, advocates—deserted even by him who should have been its Solicitor-General, thus it is that the cause of *Economy* is left to take its chance for finding here and there an advocate among low people, who have never been regularly called to this high *bar*: interlopers, who, destitute of all prospect of that “remuneration” which is the sole “*principle of activity that ani-*

mates men in the attainment of power and station," (p. 66) destitute of the advantage of "*passing occasionally through even the inferior situations,*" (p. 66) are destitute of all "*talent,*" destitute of all "*virtue*"—and whose productions, if, for the purpose of the argument they could for a moment be supposed capable of contributing, on the ground here in question, anything that could be conducive to the public service, would, one and all, be so many effects without a cause.

SECTION XII.

CONCERNING PECUNIARY COMPETITION—AND THE USE MADE OF THE PRINCIPLE.

BEFORE the subject of *influence* is dismissed, a word or two may, perhaps, have its use, for the purpose of endeavouring to submit to the consideration of the Right Honourable Panegyrist an article of *revenue*, viz. *crown lands*, which neither on his part, nor on the part of his hero, seems to have received quite so much attention as could have been wished.

To the purpose of the present publication, a circumstance that renders this article the more material, is—that it may contribute to render more and more familiar to the eye of the reader a *principle*, on a due estimation of which the plan hereafter to be proposed depends for every thing in it, that either promises to be in its effect eventually useful, or is in its application new.

Economy and *purity*—reduction of expense, and reduction of undue influence—in these may be seen the two distinguishable and distinguished,

though intimately connected, objects, to which, speaking of the principle of *competition*, our Right Honourable Author speaks of it as having meant to be made subservient, and as having accordingly been made subservient, in the hands of Mr. Pitt (p. 26.)

“Mr. Pitt” (he informs us, p. 25) “looking anxiously to reforms, effected many even considerable savings—and at the same time sacrificed an influence as minister, much more dangerous than any possessed by the crown, *because more secret and unobserved*; the extent of it indeed could be known only to himself and to those in his immediate confidence. We shall state” (continues he) “the measures—in their order, beginning with loans and lotteries,—proceeding with *private contracts*, and closing this part of the account with the profit derived from the mode irrevocably established respecting *the renewals of crown leases*. In each of which cases the influence diminished was not only extensive, but was obviously in its nature more objectionable than any that could be acquired by the disposal of *offices*; as the effect of the former was *secret and unobserved*, whereas the latter is apparent and generally known.”

Thus far the Right Honourable Author: a word or two now from his obscure commentator.

Coming to crown lands (p. 34) “The last head of saving by management” (says he) “is under that of the estates of the Crown. The Act of the 1st of Queen Anne,* continued at the beginning of each succeeding reign, for limiting grants of crown lands to 31 years, put a stop to the actual alienation of the property of the crown; but, in its operation, had the effect of greatly adding to the

* 1 Anne, st. 1. c. 7.

influence of it, and certainly afforded no protection whatever to its revenues, as will be seen in the note below.* In reigns antecedent to that of Queen Anne, when grants were perpetual, the persons to whom they were made became immediately independent of the crown, and not unfrequently gave very early proofs of that independence: whereas, by the measure adopted on the accession of the Queen, every grantee, or the person representing him, became dependent on the Minister for a renewal of his lease, for which applications were generally made at such times, and on such occasions, as were thought to afford the best hope of their being attended to, on terms favourable to his interest.

“ Under this system Mr. Pitt, on coming into office, found the whole landed property of the Crown, and the income arising from it, in every way, very little exceeding 4,000*l.* a year.

“ *He therefore after long inquiries, and most attentive consideration, applied a remedy in 1794, when an Act was passed,† by which it is provided that no lease shall be renewed till within a short period of its expiration, nor till an actual survey shall have been made by two professional men of experience and character, who are required to certify the true value of the premises to the Treasury, attested on their oaths. No abuse can therefore take place, nor any undue favour be shown, under the provisions of this law, unless surveyors of eminence in their line shall deliberately perjure*

* In 15 years, to 1715, the whole income from Crown lands, including rents, fines, and grants of all sorts, was 22,624*l.* equal to 1,500*l.* a year. Journals of H. C. vol. xx. p. 520; and in 7 years, to 1746 was 15,600*l.*, equal to 2,228*l.* a year. —Journals, vol. 25, p. 206.

† 34 Geo. III. c. 75.

themselves, or a Treasury shall be found bold enough to grant leases, or renew them, at a less value than shall be certified to them, which could not escape immediate detection, as there is a clause in the act requiring an account to be laid before Parliament annually of what leases or grants shall have been made in the year preceding; for what terms or estates; the annual value, as returned on oath by the surveyors; the annual value of the last preceding survey; what rents shall have been reserved, or what fines paid; and upon what other considerations such leases shall have been respectively made.

“More strict provisions to guard against any evasion of the law could *hardly* have been devised.”

Thus far our Right Honourable Author.

Where, having determined with himself to obtain for public property the best price that is to be had, Mr. Pitt pursues that principle, my humble applause follows him: but when, without sufficient reason he turns aside from that or any other principle, then my applause stops: applause, whatever in that case perseveres in following him, will be of that sort which comes from copartners and panegyrists.

When government annuities were the commodity to be disposed of, then it was that it was the choice of Mr. Pitt to have the best price: then it was that, choosing to have the best price, he adopted the mode and the only mode by which that effect can be produced.

When leasehold interests in Crown lands were the commodity to be disposed of, then it was that it was not the choice of Mr. Pitt to have the best price. Then it was accordingly that, for fear of having the best price, care was taken *not* to em-

ploy the mode, the only mode by which any such effect can be produced.

To avoid giving birth to the undesirable effect in question, the expedient employed was (we see) an “actual survey, made by two professional men of experience and character, who are required to certify the true value of the premises to the Treasury, attested on their oaths.”

“Under the provision of this law,” one thing the Right Honourable Gentleman endeavours to persuade us of (p. 35)—is, that “no abuse can take place, nor undue favour be shown.” Why not? Because (says he) no such effect can take place “unless surveyors of eminence in their line shall deliberately perjure themselves or”—something else which he mentions shall take place, and which, admitting the improbability of it, I shall not repeat here.

As to *perjury*, the word is a *strong word*, and to the purpose of causing the reader to suppose that the security provided by it is a *strong security*, more conducive than any real lover of sincerity can be well pleased to find it. But, from the pen of a veteran in *office*, and in *offices*, and in *such offices*, to whom it cannot be altogether unknown, to how prodigious an extent the people of this country are made deliberately and habitually to perjure themselves; and how fond, under the guidance of priests and lawyers, the legislation and jurisprudence of this same country have been, of causing men, always without any the smallest use, deliberately to perjure themselves*—it is not without pain that a man who has any real dislike

* See “Swear not at all,” &c. by the Author: printed 1813: now (1817) just published.

to perjury can behold this security held up to view in the character of a *real* one.

Cases there are (it is confessed with pleasure) in which this alleged security is an efficient one: as for instance, where testimony to a matter of fact is to be given, *vivâ voce*, in an open judicatory, and under the check of cross-examination: not that even in that case it is to the ceremony that the efficiency would be found ascribable, but to the cross-examination, and the publicity, with or without the eventual punishment. But in the case *here* in question, not one of all those elements of efficiency is to be found. The sort of perjury which the Right Honourable Gentleman endeavours to make us take for a punishable offence, suppose it, for argument's sake, committed—was ever one instance known of a man being prosecuted for it as for perjury? Great would be my surprise to hear of any such case. Would so much as an indictment lie? I have not searched, nor to the present purpose does it seem worth while. Gross indeed must be the case, strong and clear; stronger and clearer than it seems in the nature of the case to afford—the proof by which, upon any such indictment, conviction must be produced.

Few, it is evident, are the sorts of articles—lands, houses, or any other such articles, coming under the head of *crown lands*, being unquestionably not of the number—few, about the value of which it may not happen to “surveyors of eminence, experience, and character” to entertain real differences of opinion; and moreover, and without the smallest imputation on that “*character*,” much more without the possibility of suffering as for *perjury*, to agree in assigning such a value, as to a

§ XII. *Concerning Pecuniary Competition.* 155

very considerable amount—according to circumstances, say 5, 10, 12, 15, 20, 50 per cent. (in short one knows not where to stop) greater or less than what in their opinions respectively is the true one.

The real value of the premises is the joint result of some half dozen (suppose) of circumstances on each side: whereupon on one side (suppose again) this or that little circumstance, somehow or other, fails of being taken into the account. Unless the human understanding were that perfect kind of machine which every body acknowledges it not to be, who could think of speaking of it as importing so much as a speck upon a man's character, that any such little oversight has taken place? Meantime the profit by the oversight may amount to thousands of pounds in any number.

Unfortunately for *Economy*, still more unfortunately for *Uncorruption*, the sort of contract here in question is one of those in which, with a pre-eminent degree of force, interest and opportunity join, in securing to the subject of valuation, a false or under-value. What the one party, viz. the proposed lessee wants, is money: what the other party—the “discharger of duties and public trusts” wants, is *influence*. If the valuation be deficient, then, in proportion to the deficiency, both parties have what they want. Under a state of things so favourable to mutual accommodation, let any one, who feels bold enough, undertake to set a limit to the loss liable to be produced to the public by the substitution of this mode of sale, to the only one which is capable of finding out the real value. In a *fancy* article, such as a villa, or a site for a villa, cent. per cent. may be below the difference. Ten per cent.—to put, for argu-

ment's sake, a certain amount for an uncertain one—will surely be regarded as a very small allowance.

In this ten per cent. then may be seen the amount of the *saving*, or the acquisition, call it which you please, which on the occasion in question might have been made to the public, and was not made.

Thus much as to *revenue*. Then as to *influence*, “some judgment,” as Mr. Rose observes (p. 37) “may be formed by observing, that of the persons holding crown leases when the act was passed, upwards of *eighty* were Members of one or the other House of Parliament; and it is hardly necessary to add” (continues he) “that in the cases of *other lessees*, the parties, who might have the means of doing so, would naturally resort to solicitations of friends for obtaining the Minister's favour.”

Now, in the picture thus drawn of the state of the case, as it stood at *that* time—drawn by so experienced and expert a hand—so far as concerns *influence*, I, for my own part, till some distinct ground of difference is brought to view, cannot but see a picture equally correct of the state of the case as it stands at this moment: at this moment, viz. after and notwithstanding—not to say by reason of—the reform thus lauded. So far indeed as concerns revenue, I cannot doubt but that a very considerable change—and so far as it goes, a change for the better, has been made: a change, for the amount of which I take of course the account given of it by Mr. Rose. But, so far as concerns *influence*, what I should not expect to find is that any change, worth taking into account, had taken place. “*Eighty*,” according to the Right Honourable Gentleman, is the number of *Members* so circumstanced at that time; *eighty*,—or rather

from that increasing division, which landed property, where it will serve for building, or even for sites of villas, naturally admits of, *more* than eighty—is the number which I should expect to find at present; not to speak of *expectants*, for whom, where the purpose of the argument requires it, the Right Honourable Arguer knows so well how to take credit. For convincing an Honourable or Right Honourable Gentleman of the superiority of one ministry over another, ten per cent. upon any given sum will not, it is true, serve so effectually in the character of a persuasion, as thirty per cent.: but wherever the ten per cent. suffices, the abolished twenty per cent. would have been but surplusage, since thirty per cent. could do no more. The case of the villa contiguous to Chelsea Hospital—a case which, though it happened so long ago as the last session, is not yet, it is hoped, altogether out of recollection—may serve, and as well as half a hundred, for clearing and fixing our ideas on this subject. From that case may be formed some judgment, whether the impossibility of “abuse and undue favour” is quite so near to complete, as it would be for the convenience of the Right Honourable Gentleman’s acknowledged purposes that we should believe it to be.

All this while a circumstance which has contributed in no small degree to that composure and tranquil confidence, of which my readers, if I happen to have any, may on this occasion have observed the symptoms, is—a surmise in which I have all along been indulging myself,—viz. that between the opinions of the Right Honourable Author and those of his obscure commentator there does not, on this occasion, exist *at bottom* any very considerable difference.

“More strict provision to guard against any

invasion of the law could *hardly*" (says the Right Honourable Author) "have been devised." But it will be for the reader to judge, whether the law in question be quite so well guarded against evasion, as, by this saving word *hardly*, the argument of the Right Honourable Gentleman is guarded against any such impertinent charge as that of having said the thing that is *not*. Neither on this nor on any other occasion, could it easily have escaped a sagacity such as his, that a mode of sale, the sure effect of which is to perpetuate a constantly *inferior* price, is not quite so favourable either to increase of revenue or to diminution of influence, as a mode of sale, the sure effect of which is—to obtain, on each occasion the *very best* price.

Pecuniary competition—Auction—having, and in other instances to so great an extent—by this same hero, and with the special applause of this same panegyrist been employed, as and for the best contrived mode or instrument for obtaining, for such articles as government has to dispose of, the very best price—having been applied, and with so much success, in the case of government annuities—having been applied, and with so much success, in the case of contracts for stores—(for when there is no fraud, it is in form only and not in effect that, in this case, there is any difference between *competition* and *auction* in the common acceptation of the word)—and moreover in the case of the very sort of article here in question—in the case of *lands*—sale of leasehold interests presenting themselves to view in every newspaper, and even *letting by auction* in the first instance, having nothing new in it, it would be a most instructive explanation, to us whose station is *without doors*, if in his next edition the Right

Honourable Author would have the goodness to inform us, how it happened, that when in the course of her voyage, Economy had reached the latitude of the *crown lands*, she all of a sudden stopped short, and, instead of the best instrument for fishing out the best price, took up with so weak and ill-contrived an one. Is it that in the case of lands, *auction* is less well adapted than in the case of goods to an obtainment of the best price?—less well adapted to the obtaining that best price for leasehold interests in *lands*, to be paid for in money, than for *money* to be paid for in *goods*? On the contrary, in the case of goods, to be supplied to government by contract, as in the case in question, with the benefit of competition, the Right Honourable Gentleman, if not already informed, might with little difficulty be informed of cases upon cases, in which the rigour of the principle of competition receives a very convenient softening, from expedients which have no application in the case of lands.

In default of such full and authentic lights, as nothing short of the *experience*, joined to the condescension, of the Right Honourable Gentleman, would afford us, it may be matter of amusement at any rate, if of nothing better,—to us whose station is on the *outside* of the curtain,—to figure to ourselves, in the way of guess and pastime, what, on the occasion in question, may have been passing *behind* it.

Before so desirable a head of reform as that in question could be brought even into the imperfect state dressed up as above by the ingenuity of our Right Honourable Author, “*long inquiries, and most attentive consideration*” (we are informed by him, p. 35) took place. Of these “*long inquiries*,” no inconsiderable portion, if one who knows

nothing may be allowed to guess, were naturally directed to so desirable an object, as that of knowing what, in case of a change of the sort proposed, the *eighty* members, of whom we have seen him speaking, would be disposed to think of it: and of the "*attentive consideration*," no inconsiderable portion (it is equally natural to suppose) was bestowed upon the *objections*, which an *innovation* of this sort could not but have given birth to in so many Honourable and Right Honourable minds.

With a set of hobgoblins, known among school boys by the collective appellation of the *secret advisers of the crown*—and of whom certain *sceptics* (such has been the growth of infidelity!) have of late (it seems) been found *Arians* or *Socinians* enough to question the existence,—our author's hero, there cannot be any doubt, supposing them always to have had existence, must have had to fight, on this, as on many other occasions, many a hard battle. Of such warfare, the result, on the occasion here in question, seems to have been a sort of compromise. To restraint upon the dilapidation of the revenue, *Fee, Faw, Fum* could be, and accordingly were brought to submit;—and thus it was, that sale, grounded on collusive valuation, was substituted to absolute gift. To the diminution of influence, *Fee, Faw, Fum* could not and would not be brought to submit: they would have gone off to *Hanover* or to *Hampshire* first:—and thus it was that sale, grounded on collusive valuation, was preferred to sale *for the best price*.

OBSERVATIONS

ON

MR. SECRETARY PEEL'S

HOUSE OF COMMONS SPEECH,

21st MARCH, 1825,

INTRODUCING HIS

**POLICE MAGISTRATES' SALARY
RAISING BILL.**

Date of Order for Printing, 24th March, 1825.

ALSO ON THE

**ANNOUNCED JUDGES' SALARY RAISING BILL, AND
THE PENDING COUNTY COURTS BILL.**

OBSERVATIONS

MR. SECRETARY PERER

HOUSE OF COMMONS

POLICE MAGISTRATES, BARRY

RAISING BILL

THE HOUSE OF COMMONS, 1817

ANNOUNCED BY THE HOUSE OF COMMONS

THE HOUSE OF COMMONS

LONDON:

PRINTED BY C. H. REYNELL, BROAD STREET, GOLDEN SQUARE.

OBSERVATIONS,

&c.

1. Clauses, six : of minor importance, the four last : of major, the two first : whereof the second for establishing the measure : the first (the preamble) for justification of it.

Measure, 200*l.* a year added to the salaries of the existing thirty Police Magistrates. Original salary, 400*l.*—see below. Last year but two, (3 G. IV. c. 55.) so says clause 1,—200*l.* added to it. Already comes the demand for as much more.

A reason is wanted—and such an one as shall amount to a justification. Ready at hand is a complete one, and not less concise than complete ; one single word—*expediency*. “ And whereas it is *expedient* to encrease the said salary.” The House has *standing orders*—Parliament has *standing reasons* : at any rate it has this one, and this one is the standing representative of all others. To the wise, and from the wise, this one word is sufficient.

For this second 200*l.* it is all-sufficient ; whether

it might have served equally for the first. Time for search is wanting. But I would venture a small wager, that on that occasion it did so serve: it will serve equally well for any number of others. It is made of stretching leather. It *works well*, and wears well: it will be as good a thousand years hence as it is at present. That which is *expedient* is *expedient*. What can be more *expedient* than *expediency*?....I could not refrain looking. I should have won my wager. The *expediency* reason is not indeed applied exclusively to the salary-raising clause (No. 6.), but it shines in the preamble; and in that clause the lustre and virtue of it extends to all the others.

According to usage, the sum is left in blank in the Bill: according to usage, the blank is filled up by the eloquence of the Minister.

After having thus done the one thing needful, and stamped the measure with intelligibility, he might not perhaps have done amiss, had he left the justification of it to the wisdom of Parliament, as above.

That injustice may be completely avoided, misrepresentation as far as possible, the *Times* and the *Morning Chronicle*—two of the most accredited sources of information—have, upon this occasion been drawn upon, and the matter divided into numbered paragraphs; and, for the grounds of the respective observations here hazarded, reference has, by means of the numbers, been made to those several paragraphs.

Original salary, 400*l.* a year (see below.) Last year's addition, 200*l.* a year. Existing, what? 600*l.* Magistrates, thirty. Aggregate of the addition, 6000*l.* a year: aggregate of the now proposed addition, another 6000*l.* a year; together, 12,000*l.* Nature of the demand clear enough: not to speak

of *reason*, which seems altogether out of the question: not so the alleged *grounds* of it. To tread them up has been *tread-wheel* work.—Result, what follows.

Evils proposed to be remedied, deficiencies:
1. deficiency in appropriate intellectual aptitude:
2. deficiency in time employed in attendance.
As to aptitude, during the 400*l.* a year (so says No. 2.) incompetence total. Thus far aptitude: the same certificate may, without much stretch of inference, be made to apply to quantity of attendance. These are the evils for which the second 200*l.* a year, multiplied by 30, is to suffice as a remedy. The first dose was administered two or three years ago: already it has been found insufficient, else why apply for another? But that which a single dose cannot effect another dose may; and if this does not, others and others after them are at hand from the same shop.

For the remedying of these evils, the reality of them being supposed, begin as above and end as above, the means provided by the wisdom of Parliament.

That wisdom having thus exhausted itself,—for ulterior remedies, how little so ever needed, comes, as will be seen, an additional supply, provided by administration: provided, by the genius of Lord Sidmouth, who invented them; by the magnanimity of Mr. Peel, who disdained not to adopt them. They are—future exclusion of all non-barristers: ditto of all Barristers of less than three years' standing. I speak here, and of necessity, of the two Secretaries, late and present. For it is by Mr. Peel and his successors in that office, if by anybody, that these remedies are to be applied. Parliament is to know nothing of them: Parliament is not to be trusted with the application of them.

Viewing all this wisdom and virtue through the medium of the *greatest happiness principle*, (a principle which has been accused of giving to financial objects rather a yellow tinge) I have the misfortune of seeing the whole speech in a considerably different point of view—1. The alleged evils—the inaptitude, and the non-attendance—neither of them proved by it. 2. Supposing the disorder proved; the supposed remedy, Parliamentary and ministerial, as above, inefficient to any good purpose; efficient to a very bad purpose; but both these evils, though not proved by the Right Hon. Secretary, I admit, and, as it seems to me, probabalize, the existence. 3. At the same time, of both. 4. So doing, I venture to propose a remedy, which, for reasons assigned, seems to me a promising one—and the only one which the nature of the case admits of, without some change in the whole judiciary system, such as in part has been, and with large amendments, will again be, submitted to the public, but which it would be altogether useless, as well as impracticable, to insert here.

Alleged evil 1.—Deficiency in appropriate aptitude. Here I take upon me to say *not proved*. Here I am all confidence. *Subpæna* in hand, I call on the Right Hon. Secretary. In No. 11. stands his evidence—"Present Police Magistrates" (per *Times*) "of the highest personal respectability." Per *Morning Chronicle*—"their knowledge, experience, and respectability"—(all 30 of them)—"and their services had already proved the importance of the duties they had to fulfil." Per *Times*, again—"they performed their duties" (and *that* not only to the satisfaction of the Right Hon. Secretary, but) "to the great satisfaction of the country."

This being unquestionable, what is become of

the evil, and what need can there be of a remedy?

What a scene is here! The Right Hon. Gentleman at daggers drawn with himself! How to account for it? One way alone I can think of, and it is this: the force of his eloquence overpowered his memory. While, with so much pathos, he was lamenting, on the part of a certain set of persons, the deplorable want of aptitude,—he forgot that, before he sat down, he had to deliver, in behalf of the self same persons, a certificate of accomplished aptitude. When at last the time had come for the delivery of this certificate, he had already forgot how large a portion of his speech had been employed in giving contradiction to it. To answer the purpose for which they are made, what must be the complexion of the assertions of inaptitude uttered with such entire confidence? They must be at once true and false: true, for the purpose of proving the necessity of the additional bonus; false, for the purpose of entitling these thus meritorious and actually existing persons (for this slides in *sub silentio*) to receive, before any of their future contingent colleagues have been in existence to receive it, a full share of the benefit of it. Admit him to be in possession of the power of giving truth to a self-contradictory proposition, the Right Hon. Secretary proves this his *probandum*, and thus far justifies his measure: refuse him this accommodation, he stands self-confuted, and his argument is somewhat worse than none.

Were ministerial responsibility anything better than a word, the task the Right Hon. Gentleman had charged himself with, was (it must be confessed) rather a delicate one. English punch, according to the Frenchman in the Jest Book, is a liquor of contradiction: a compound of a similar complexion was that, which, on occasions such as

the present, a situation such as the Right Hon. Secretary occupies, gives him in charge to mix up, for the entertainment of Honourable House. Except in the case of an underling whose character is too offensively rotten not to make it matter of necessity to suffer him to be thrown overboard, for all official men in general—high and low—there is but one character: a general character for excellence, tinged here and there with a little difference of colour, corresponding to the nature of the department. The idea looks as if it were taken from the old chronicles: where, with decent intervals, one portrait serves for half a dozen worthies: one town for the same number of towns, and so as to battles and executions. Time and labour are thus saved. This universal character puts one in mind of an ingenious document I have seen, sold under the title of the Universal Almanac. A copy of it has been supposed to be bound up with every Cabinet Minister's copy of the Red Book. Like a formula for convictions, it might be inserted into each particular, or into one general Act of Parliament. Subscription to it, and oath of belief in it, in relation to all official persons whose salaries had risen or should hereafter rise to a certain amount, might be added to the Test and Corporation Acts: and, without need of troubling the legislature, Lord Chief Justice Abbot, or Lord Chief Justice Anybody, would hold himself in readiness to fine and imprison every man who should dare to insinuate that any such person that lives, or that ever has lived, or that ever shall live, is, has been, or ever can be, deficient in any one point belonging to it.

Without violation of this standing *character rule*, he saw how impossible it was, that any the slightest shade of inaptitude, actual or possible, in any one of its modes, could be laid upon the cha-

racter of any one of the existing incumbents. "With the character of all of them, all who heard him," (see No. 11.) "were acquainted." Remain, according to Parliamentary usage, the only persons with whom any such liberty could be taken—their future-contingent, and thence as yet unknown successors.

Here however comes something of a difficulty. Evil as above—disorder as above—inaptitude in some shape or other: remedy as above, of the preventive stamp, the 200*l.* a year. Good: supposing disorder or danger of it. But where is the room for it, where there is neither the one nor the other? Sole reason, the word *invidious*. Invidious it would be, and that being the case, "poor economy"—"so poor," (says No. 8.) "that there could not be a worse"—to refuse to those gentlemen whom every body knows, that which will be given, to those of whom, without disparagement it must be said, that they are gentlemen whom as yet nobody knows.

So much as to *aptitude*: and the alleged, and by the same person at the same time denied, deficiency in it. Remains as another, and the only remaining subject-matter of deficiency, the article of *time*—time employed in official attendance. This, too, is another delicate topic. Standing so near to aptitude, and, in particular, to the moral branch of it, nothing determinate in relation to it could be hazarded: allusion, insinuation, yes: but nothing that applied to any body. "Great increase of population." (No. 1. *Morning Chronicle*) "The duties of the office would require constant attendance" (No. 5. *Morn. Chron.*)—"almost constant attendance.—(No. 4. *Times*.)—Hereupon comes the same troublesome question as before. This constancy of attendance, is it not then paid by the present gentlemen? Answer, as before, yes and no:

and, to secure it at the hands of their future colleagues and successors, comes the necessity of the same sweet security—the 200*l.* a year: this 200*l.* a year to be given, and without condition, not only to those unknown persons, but moreover, and in the first place, on pain of hearing the word “invidious,” and bearing the stigma of “poverty,” given also to the existing Gentlemen, in whose instance there is so much, and so little, need of it.

So much for the Right Hon. Secretary's two evils, and his proof of their existence. Now for his two ministerial remedies in aid of the 200*l.* a year parliamentary one:—1. exclusion of all but Barristers; 2. exclusion of all Barristers but three-year old ones. Problem, which his rhetoric or his logic, or what is sometimes more powerful than both, his silence, has undertaken for the solution of—how to prove, that, by these two exclusions, added to the 200*l.* a year,—appropriate aptitude, moral, intellectual, and active, adequate to the situation, together with adequate plenitude of attendance, will be produced.

By this policy, he secures, to this class of his *protégés* the aptitude, proved by the right to the name of *Barrister*. Now then what are the qualifications, the sole qualifications, of the possession of which any proof whatever is given by the right to bear this name? Answer: Being of full age; payment of a certain sum in fees and taxes, and, on a certain number of days sprinkled over a surface of five years, eating and drinking in a certain place, or therein making believe to eat and drink. Sum: between one and two hundred pounds; place, the hall of an Inn of Court; number of days, twenty in every year; total number of days, a hundred. As to the *making believe*, this option must not be omitted: nor yet the hour—four, or half-past four; for neither the

hour nor the fare accord well with the taste of the class of persons for whom, it will be seen, the 800*l.* is destined.

As if this security were not strong enough, now mounts another upon the shoulders of it. After five years employed in the above exercises, then comes a *repose* of three years more; for not less indeed than these three years more, must this class of the Right Hon. Secretary's *protégés* have borne the name of *Barrister*: but, as to the exercises of eating and drinking, if it be agreeable to the gentleman to perform them, he is no longer burthened with any limitation in regard to place. The Right Hon. Minister in the pathetic part of his speech (No. 4.) asks a question: May logic, in the person of an obscure individual, be permitted to do the like? Comparatively speaking (for I mean nothing more)—service for five years, (the usual time), as clerk to an attorney, would it not be a security, though not so dignified, somewhat more efficient? The clerk could not be altogether ignorant of law without his master's suffering for it. The master, therefore, has some interest in causing him to learn it; the clerk, in learning it. But more of this further on.

The security is of Lord Sidmouth's invention: so his Right Hon. Successor assures us: and much inferior authority might have sufficed to command belief. It is just the sort of security, that the genius of his Noble and Learned Oracle, or of Mr. Justice Bailey, or of Mr. Justice Park, might have devised: of all these luminaries the collective wisdom was perhaps expended upon it. For all these luminaries, the name of barrister, with three years' wear of it, was security sufficient: and, if he is sincere, Lord Sidmouth's Successor looks no deeper than to names.

So much better in their eyes is a nominal security than a real one, that when a real one offers, it is deliberately put aside. (No. 6.)

The design of the Right Hon. Secretary found the class of country gentlemen standing in its way: a class, before which Ministers, not to say Kings themselves bow, was not to be lightly dealt with. Something in the way of compliment to them was indispensable; the compliment, however, was unavoidably of a somewhat ambiguous character, as, not being eminent lawyers, they could not serve the purpose. Inaptitude on their parts, relative inaptitude at least, it was necessary should somehow or other be insinuated.

As to this matter, if *absolute* inaptitude would content the Right Hon. Gentleman, my feeble suffrage would see no very cogent reason against joining itself to his: but, as to comparative inaptitude, in the case in question,—comparative in relation to his three years old, and theretofore *perhaps*, eating and drinking Barristers, so far I cannot go with him. For, not only country gentlemen at large, but country Magistrates—nay, and such country Magistrates as have been in use to perform—and that for whatsoever length of time—the duties of this very office—such are those he puts from him. This being decided, for extinguishing all pretensions to appropriate aptitude on their part, the purpose of his argument required a dyslogistic epithet. *Routine* is accordingly the epithet, by which the whole of the business they have been accustomed to is characterised. Yet, make the least of it, it at any rate composes the greatest part of the business of the very office from which he is excluding them: one more look, and, as you will see that the business they have been accustomed to, has, in the instance of many of

them, and may, if he will vouchsafe to adopt them, be, in the instance of all these children of his adoption, made to comprise the whole of it. Such being the candidates whom he puts aside as unfit for the business, what are the objects of his embrace? Three years old Barristers, altogether unused to business of any kind; unless eating and drinking, or making believe to eat and drink, is business. To a person who has never dined, or made believe to dine, at an Inn of Court hall, all this may seem exaggeration, to say no worse. *I* speak not only from observation, but from experience. Such is my good fortune, never as yet have I been convicted of perjury: nobody has ever given me anything for saying this: my evidence is therefore good evidence; and it applies not less to the making believe to eat and drink, than to the actual exhibition of those so perfectly conclusive, and exclusively receivable tests of aptitude for the office of Magistrate. Thus the matter stood sixty years ago, and thus I am assured, by equally competent witnesses, it stands still. Let it not be said, the place being a law place, the conversation turns of course upon law. There being no conversation upon anything, there is no conversation upon law; for, unless you happen to be already acquainted with him, you have no more conversation with your messmate, than if he were at the antipodes.

To complete his demonstration of the superiority of his three years old Barristers without any experience, to a quondam country Gentleman with thirty years of appropriate experience, the Right Hon. Secretary brings exemplification from the Building Act, and tells Honourable House of a case under it which (says No. 7.) had occupied "a couple of days, during which surveyors had been

examined on both sides." Now, in a case of this sort, what is there that should render even an experienced Magistrate less competent than an equally experienced Barrister? What has it to do either with equity or with common law? Country Magistrates, who, not a few of them, are themselves builders—who, all of them, are accustomed to order buildings to be built—built with perhaps a little of their own money, and sometimes with rather too much of other people's—what should hinder them from being at least as well conversant with the subject, as the most learned inhabitant of Lincoln's Inn Old-buildings? Here, for law is an Act of Parliament, nothing more: for fact, evidence about something that should or should not have been done under that same Act. The *days* thus employed, what would they have been to the purpose, if, instead of two, there had been twenty of them?

At the winding up of his speech, (No. 10.) to place above all contradiction the indispensableness of the 200*l.* a year, comes a trope—the word *refuse*—which seems to bid defiance to all endeavours to descry anything in it beyond the intensity of the desire to give birth to the indispensable effect.

Barristers—all Barristers in the lump—are, by this figure of speech, divided into two classes: those who will serve for 600*l.* a year, and those who will not serve for the 600*l.* but will for the 800*l.* As to the meaning, it is indeed intelligible enough: not so, by any means, the grounds of it. That it were so is, however, rather to be wished: for, those—all those, who would be content that the 600*l.* a year, public money, which the Right Hon. Secretary is thus buying creatures with, should be saved—all those, Barristers as they are, are branded with the common name of *refuse*. Such is the contempt, the undisguised, the thus loudly proclaimed

contempt, in which sincerity, I mean always comparative sincerity, is held by this one of our head guardians of public morals. Insincerity is among the qualities professed to be possessed by Barristers: the only one which is sure to be possessed by any of them. Now then, true it is, that no reason can be alleged for supposing, that, so far as *disposition* goes, those who get least business are behind-hand in this endowment, with those who get most: but disposition is one thing, practice is another: and the less a man has manifested of it, the more deep-drawn is the contempt which he receives on his head at the hands of the Right Hon. Secretary, from the bucket lettered with the word *refuse*.

Meantime, here stands a strange mystery. Refuse—were there ever such a plenty of it, would the hand of Mr. Peel pick it off the dunghill, and place it on high—this refuse? Forbid it, consistency, at least. For who is it that prophecies it of him? Is it not Mr. Peel himself? But shall he be suffered thus to deal by himself? Shall Amyntas murder Amyntas?

One possible solution remains, and but one. On the part of a Barrister, willingness to serve in the office of Police Magistrate for so little as the 600*l.* a year, is not merely evidence of his inaptitude for that office, but conclusive evidence. This meaning, however strange, being intelligible enough,—we have thus far something tangible to examine. For, supposing none but refuse willing to serve, refuse he must take up with, or have none: and thus, it being Hobson's choice, there is no inconsistency either in his making it, or in his avowing the making it. But suppose enough willing who are *not* refuse, what matter is it how many there are who *are* refuse? Will he, then,

having good and bad before him, both in plenty, take in hand the bad, putting aside the good?

The stock of difficulties is not yet exhausted. Comes now a point for him to settle with certain gentlemen. Of the thirty gentlemen at present serving in this situation, *four* I see, who, by his own account (No. 11.) are serving, and for these three years, or thereabouts, have been serving, at the low price. None of them, I hope, were born in Ireland, or in the United States: if yes, there may be danger in the case. "Sir (they may say to him, one after another) do you mean to call me *refuse*?" One consolation is, that refuse, as according to him they are (as per No. 1.) they are not the less included in his certificate (No. 6.) of universal aptitude. This, with the assurance of the additional 200*l.* may, it is hoped, soften them. Was it for this that the 200*l.* was extended to those, in whose instance experience, if he is to be believed, has demonstrated that for any other purpose it was not needed?

One lumping assumption there is, upon which the whole strength of his argument rests. Faintness of prospect, such as to induce a man in the profession to take up with 600*l.* a year certain, charged with moderate labour, is conclusive evidence of his not being fit, either for the profession of Barrister, or for the office of Police Magistrate. How brisk are the Right Hon. Secretary's conclusions! Involved in the assumption is this—that all who have not actually a certain quantity of the business in question, or at least a strong assurance of it, are unfit for it. Now then how stands the matter in point of fact? In a prodigious degree more than any other, this profession is always overstocked. In this same profession, the quantity of business that shall

be deemed sufficient to produce a refusal of the office, with the 600*l.* a year—let the fixation of it be left even to him—for one who is in possession of it there may be two, or more likely a much greater multiple of one, that are *not* in possession of it. Here then, according to his own reckoning, for one who is *not* refuse, there will be the two, the three, the half dozen (where shall we end?) who *are* refuse: and yet, as above, of this refuse, for aught he can know, numbers there are in any proportion, whose aptitude is at the highest pitch, and who yet, if they have either common prudence, or disposition to follow so many examples as are before them, will not disdain to pick up the supposed disgraceful pittance. Let me not be accused of taking an undue advantage of an unguarded word. Substitute the tamest word the language furnishes, the arguments remain the same.

Mean time, who does not know that there are certain points of aptitude, in respect of which a man may be very indifferently qualified for making his way at the bar; and yet, perhaps, be but so much the better qualified for the exercise of the functions of the office in question, being, as they are, with Mr. Justice Bailey's leave be it spoken, the functions of the judge. Rhetoric is the leading talent of the Barrister; logic, of the judge: and between the two, the strife is not much less fierce than, according to the poet, between liberty and love.

Be this as it may, almost every body knows—and a man must be a Secretary of State, or at least a Cabinet Minister, not to know—that in this profession, above all others, success depends upon accident, at least as much as upon aptitude:—that it has for its proximate cause a certain opinion in the heads of attornies: and that, if external circumstances, altogether independent of

inward endowments, do not concur in the generation of this opinion, a man may unite the rhetoric of a Murray with the logic of a Dunning, and, at the end of a long life, die, like Serjeant Kemble the Reporter, without ever having clasped, to his panting breast, the blessing of a brief.

Nor yet are we out of our wood. For, still remains one topic, to thicken the perplexity. It is that of the *length of standing*—the yet remaining one of the three branches of the Right Hon. Secretary's security for aptitude. To render a barrister an object of his choice, three years (says No. 3.) must be his length of standing. Now then of the number *three* thus applied, what was the design? to extend the number of admissible candidates, or to narrow it? The too young or the too old—for the exclusion of which of these unapt classes was it intended? The too young—says the wording, abstractedly considered: the too old—says the word *refuse*, and the sort of argument conveyed by it. For, these are they, who, by their willingness to accept of so low a price as the 600*l.* have given the requisite proof of inaptitude:—of their despair of Barrister business;—and consequently of their inaptitude for the office of Police Magistrate. Thus incompetent (says the argument) are the old Barristers run to seed.—Turn now to the three year olds. In the breasts of all this blooming youth, no such self-condemning and inaptitude-proving despair, can have had time to form itself. At this short standing,—unless here and there a special pleader, who has shown himself by practice under the bar, be an exception,—no practice, no expectation—consequently no disappointment. Expectation! How should there have been any? After these three years, how long (shall we say) continues the time for *junior openings*, which require

nothing but a few words got by heart, and half-guinea *motions of course*, which require not even that?—sources not furnishing, upon an average, the tenth part of the supposed disdained 600*l.* Now then comes the comparison. To these men, in whose instance, by the admission, or rather by the assertion, of the Right Hon. Secretary, the probability is, that they have had no appropriate experience worth mentioning,—to these men is to belong the exclusive chance of being chosen for the office: while those, who may have appropriate experience, in any quantity not incompatible with the choice of 600*l.* a year for life, charged with the already very moderate, and naturally still decreasing labour, which will be seen presently,—are for that reason to be regarded as being proved in hopeless degree unapt, and on that ground are to be excluded from all chance.

“But you have forgot” (says somebody) “the wonder-working 200*l.* a year.”—Not I indeed. But, forasmuch as, in the case of the three year olds, it is to create aptitude out of nothing,—I see not why it should find less difficulty in creating it, in the instance of the twenty or twenty-three year olds, to whose stock of the requisite materials no limitation can be assigned, short of that which is applied by an assurance of more than the 600*l.* a year by professional practice.

To prepare Honourable House for the reception of the above logic and the above rhetoric, Right Hon. Secretary sets out, I see, with history. Original salaries, 400*l.*; result per *Times* (No. 2.) “incompetence:” per *Morning Chronicle*, “total incompetence.” Cause and proof of the incompetence, manifest: out of twelve (the original number) barristers, no more than *three*. Being Barristers, these three should naturally have produced a

five-and-twenty per cent. discount from the totality of the incompetence; but *perhaps* they were of the *refuse* sort: and grant him but this, the exception, being thus only apparent, gives strength rather than weakness to his sweeping rule. Here too sincerity compels me to be totally recalcitrant: major, minor, conclusion—to nothing can I accede. Incompetence, neither proved nor probabilized: power of the first 200*l.* a year to increase competence (supposing a deficiency of it) denied by me: supposing it admitted, need of the proposed second 200*l.* a year for producing competence, denied again: the actual production of it having been so triumphantly proved by me, as above: proved by the most irrefragable of all testimony—his own evidence.

Proof of the incompetence of the original nine, —*non-Barristership*. With so concise, and at the same time so satisfactory a proof, especially to the Barrister part of the audience,—at this stage, of his history in union with his logic, the Right Hon. Secretary might perhaps have done as well, had he not only begun, but ended: not much strength, it is believed, will either of these his supports, receive from the particulars. The year of the establishment being 1792,—the nine are all of them, by this time, gathered to their fathers; indeed, the Right Hon. Gentleman's urbanity considered, the sentence thus passed on them proves as much. From such a quarter, a more drastic condemnation, unless it were by the word *refuse*, can scarcely be imagined. But they had not risen (poor gentlemen!) to the rank of those, the feelings of whose surviving relatives can make claim to the protection of Lord Chief Justice Abbott; and, if they had, it is not against a Secretary of State, nor even against a member of Hon. House—speaking in his place—that it could

be afforded. Instead of the sweet satisfaction of seeing fine and imprisonment inflicted on the gainsayer,—they must therefore, under their affliction, put up with such poor support, as an obscure and unpaid ex-Barrister of the refuse class has it in his power to give.

With an exception (of which presently) of no one of the devoted nine do I remember anything. The sort of *character evidence* which I have to adduce for them, is therefore none of it of that sort which is called *direct*: none of it more than *circumstantial*. Nor is it the worse for being so; for, as applied to character, the value of direct evidence, unless it be from some such person as a Secretary of State, may be judged from what is above, although it is from a Secretary of State.

To return to the history.—In regard to appropriate aptitude (*competence* I cannot keep to, since it includes, not to say exclusively denotes, acceptance at the hands of those to whom inaptitude is a recommendation)—in regard to appropriate aptitude, the question is between the nine defunct and reprobated original Magistrates, and the Right Hon. Secretary's Magistrates in *petto* or in *embryo*—his three year old Barristers. Of these, as yet unborn babes of grace—offspring of the imagination of the Right Hon. Secretary, the title to the quality of aptitude has been already disposed of: circumstantial evidence and proof presumptive of inaptitude,—want of experience in business, or more shortly—their not being *men of business*. Now then for my nine clients. The Right Hon. Secretary's list of them (No. 2.) has been seen: Major, one; Clergymen, three;—(oh fie! what after the Major?) Starch Dealers, two; Glasgow Trader, one. Now, with the exception of the three Clergymen (whom I shall leave to those so much more efficient

advocates, of whom no gentlemen of their cloth can ever be in want—Magistrates for whom I cannot find any tolerable presumptive evidence of their having been men of business in any way)—of all the others I am bold to affirm that they had been men of business.

I will go further, and add,—nor is there any one of those occupations, experience in the business of which does not afford stronger presumption of aptitude—even in relation to the business of the office in question, than can be afforded by an utter want of all experience in any kind of business. The Major, being a Major, must have passed through the several grades—Ensign (or the equivalent) Lieutenant, Captain: and, in all of them, if commanding men by scores and hundreds is business—he must have been a man of business. The Starch Dealers, they too must have been men of business; for, buying and selling starch is doing business: and in that business, with whatever degree of success, they could not but have been exerting themselves, forasmuch as their subsistence depended upon it. All this too, in addition to their having been *bonâ fide eating* as well as *drinking*; to wit, from the hour they gave up the nipple, down to the time of their appointment; which is rather more than can be alleged in favour of the aptitude of the Right Hon. Secretary's *protégés*, unless it be the difference between the performing of those exercises at a man's own home, and the performing them in the hall of an inn of court: which difference, I cannot bring myself to regard as constituting, to the purpose in question, a very material one.

I come lastly to the Glasgow Trader. Being a trader, he too must have been a man of business. As such I might leave him; but, it having fallen in my way, to know in what ways, and in how

conspicuous a degree, with reference to the business of this very office, he proved himself a man of business, I shall venture a few particulars. This man was *Patrick Colquhoun*: and, unless destroyed by the comparative smallness of his remuneration, his relative aptitude has stronger, as well as more incontrovertible proofs than can, I trust, be produced, not only by the Right Hon. Secretary's unknown *protegés* in embryo, whom even I look down upon as so many chits,—but even by the whole of the actually existing Barrister-Magistrates, produced by the additional 200*l.* a-year, to whom I make my bow, whoever they may be. Treatise (I mean) on the Police of the Metropolis, Treatise on Indigence, Treatise on the Office of Constable—and for ought I know, others (for I have not time to hunt for them) bearing most directly upon the business of this very office. As to the first mentioned—of the number of its editions I am afraid to speak, not having the last before me: the fifth, which I have in hand, is as early as 1797, and there must have been several others after it. Into the merits of them I cannot afford to enter, this paper not being either a *Quarterly*, an *Edinburgh*, or a *Westminster Review*: nor, if I could, could I venture to put my judgment in competition with the single word *incompetence*, from the lips of the Right Hon. Secretary. I must leave them therefore to that evidence: and, if that evidence be not more probative, than any which the Right Hon. Secretary has adduced in favour of his future *protegés*, or even in favour of their existing predecessors and intended colleagues, I must give up my cause.

Evidence of this sort in abundance must be omitted. One lot is too pointed to be thus dealt with. To this Glasgow Trader, whatever may be the

value of it, was the public indebted for the first addition made to the number of those offices, and the Right Hon. Secretary for a proportionable part of the patronage, to the value of which he is thus labouring to give increase. It was the addition made by the Thames Police Act 39 and 40 Geo. III. anno 1800 ch. 87. Of this business, it fell in my way not to be altogether ignorant. A bill was necessary. Colquhoun had found the facts. I ventured to supply the law. I drew the bill, leaving out as much of the customary surplusage as I durst. In the procedure clauses, for giving execution and effect to the law, I ventured as far as I durst, and further than any one had ventured before. Incompetent as the performance could not but be, coming out of such hands, change of hands rendered its competence unquestionable. At my humble request, a Learned Gentleman of the first distinction (I know my distance better than to mention him) received it into his, and without the change of a word, it became law. The plan had been formed by Colquhoun, in conjunction with I forget what body of mercantile men, who wanted a sort of Board of which he was to be at the head. The Board they did not get: but a present of 500*l.* testified their sense of his competence with relation to police business. Such was the nameless Glasgow Trader: his name would not have been quite so suitable to the Right Hon. Secretary's purpose, as it is to mine.

As to the three Clergymen, leaving the question, as to their incompetence, to be settled by the Hon. Secretary with the Archbishops of Canterbury, defunct and living, the Lord Chancellors, and the several Lord Lieutenants, I proceed to the remaining one of the two evils, for which the second 200*l.*

a-year, as provided by him, is to operate as a remedy. This is—the deficiency in the article of *time*: the deficiency, if any, present or future, in regard to the quantity of time employed, or eventually about to be employed, by the Magistrates in question, in the fulfilment of their duties.

On this evil the Right Honourable Secretary touches, it should seem, with rather a tender hand: allusion and insinuation, rather than assertion, are the forms of speech I see employed. (Per No. 1.) In the business “great increase:” cause, ditto, partly in acts of parliament, partly in population. Triumphant tenders of papers in proof of all these facts,—to which might have been added the existence of the sun at noon day.

Of the existence of the thus delicately-assumed evil,—at the hands of the Right Hon. Secretary I look in vain for other proof. From that most authentic source, somewhat less explicit is the evidence I see to the contrary. It is that which has been already seen: it is made of stretching leather: it is wide enough to be applied to whatever can be desired. By the thirty gentlemen, (who, it has been seen, are at once so competent, and, for want of the 200*l.* a-year, so incompetent)—these duties, as per No. 11, are performed to the great satisfaction of the country; and this, notwithstanding that, as per No. 4, to prove the necessity of the Barrister part, almost constant attendance, he says, is required. Required? Good. But *by whom* was it, or anything like it, ever required?—a question somewhat more easy to put than to answer. By any such attendance, or anything like an approach to it, the place would be spoilt, and no gentleman would accept it: acceptance would of itself be proof of incompetence.

Now then, forasmuch as, in this office, according

to the Right Honourable Secretary's opinion, an "almost constant attendance" is required, and accordingly forms part and parcel of its duties;—and forasmuch as, without exception, these same duties are, according to this his evidence, actually performed—performed not merely to *his* satisfaction, but to the satisfaction of the country:—forasmuch as, I say, evidence of the existence of this one of his two evils, is, notwithstanding the prodigious pile of papers, with the mention of which he at once alarmed and satisfied the House, still to seek;—for this deficiency, though it is not in my power to provide a supply, it is not, I flatter myself, altogether out of my power, humbly to point out a course by which he may obtain it. True or false, newspaper statement is unofficial statement: unofficial statement is not admitted in evidence, even when no man in Honourable House doubts, or will venture to express a doubt, of the correctness of it. Honourable House knows better than to admit, through such a channel, anything, however well attested, in the character of evidence. Yet are such statements,—unofficial and incompetent as they are,—made use of, every day, in the character of indicative evidence, for the elicitation of acknowledged evidence. This premised, I shall venture to copy from a newspaper a portion of a paragraph: humbly observing, that in every one of the offices in question there exist various persons, from any of whom, if it be agreeable to know it, Honourable House, and in it Right Honourable Secretary may learn at any time, whether, in this same newspaper statement, there be any and what portion and degree of truth, and how far the actual agrees with their "required constancy of attendance."

"We believe," says the *Globe and Traveller*, as

quoted in the *Examiner* of March 27, 1825,—“we believe a Magistrate attends at each of the offices from 12 to 3, and looks in again in the evening. There are three Magistrates in an office, so that this duty is imposed upon each of them *twice* a week. We know that there is some business for which the *presence* of two Magistrates is necessary; but it is to be recollected that at almost all the offices, *volunteer* Magistrates are frequently in attendance. We are convinced that a very large statement of the time each Magistrate needs be in attendance, is—every other day, three hours in the morning, and twice a-week, two hours in the evening.”

In regard to this evil, if anything that comes from so incompetent a quarter could be heard, I could, I think, do something towards tranquillizing the Right Honourable Secretary. Aptitude is not quite so easily secured as asserted. But *attendance*—the maximum of possible attendance—every master-man; how humble soever in condition—every master-man that really desires it, has it. To the extent of his desires, the Right Honourable Secretary has it in his own individual office. With the assistance of Honourable and Right Honourable House, to the same extent, he may have it in the instance of every other public office without exception. If, then, in any instance, and in any degree, he fails to have it, it is because he does not desire, not because he is not able, to obtain it.

You may maximize attendance, and you may minimize it. The maximization problem has been solved, and with illustrious success, in the case of the children of the indigent, when worked upon a steam scale. As some are killed off, others succeed: and capital—the one and the only thing needful—accumulates. Exa-

mined in his place, or elsewhere, one Honourable Member of Honourable House could give, on this point, if I have not been misinformed, instructive information. His name, if I mistake not, begins with a P.

Those whose will it is to minimize attendance might, if in the above newspaper report there be any approach to truth, receive instruction, if it be worth while, by applying to another P, no less a P. than Mr. Secretary Peel. But it is not worth while : those who understand nothing else, understand this. Everybody, man and boy, knows how to be idle, every man knows what it is to stand looking on, and helping, while others are idle. Every man knows what it is to pay, as well as to be paid, for doing work, and all the while seeing and leaving it undone. Other arts travel at their different paces. Under matchless constitution, the art of sinecurism is at its acmè.

In my small way, I have a manufactory of my own, in which, with the same sort of instrument (imagination), with which the Right Hon. Secretary has manufactured aptitude in the instance of his three-year-old Barrister-Magistrates, and for my own amusement (as the half-retired chimney-sweeper swept chimneys) I make judges. My judges are judges of all work, and of all hours. They do not, it is true, sit each of them, every day in every year, and on every day, every hour of the four-and-twenty; but, in each judicatory they, following one another, do all this. *When sleeps injustice, so may justice too*, said a voice to me in one of my dreams. My muse is but a hobbling one:—she has not been to school to the Laureat's: the *too* is somewhat of a botch: but I remember her so much the better. In one thing I endeavour to copy the

Right Honourable Secretary's noble and learned friend—it is the quality so judiciously selected for his eulogium—consistency. The ends to which my Judicial Establishment, and my Procedure Code, in conformity to the Constitutional Code to which they belong, are from beginning to end directed, are the ends of justice: under matchless Constitution, the ends to which the Judicial Establishment is, and the Procedure Code, if there were any, would be, directed,—are the ends of Judicature. What these are, it is not for me to presume to inform the Hon. Secretary: over and over again he must have heard them, amidst peals of laughter, or floods of tears, from his Learned and matchlessly-consistent Friend, before or after the second bottle.

Such being the bill—such the ostensible and declared objects of it—such the evils asserted or insinuated—such the remedies provided—such the arguments employed in proof of the evils, and in recommendation of the remedies—what, after all, is the real object? The topic must not be omitted: though to few of the readers, if any, whose patience has brought them thus far, can anything on this head be regarded as much more needed, than were the Hon. Secretary's proofs of encrease of population and acts of Parliament.

Loss, by waste of public money, is in every instance an evil: in the present instance, loss in the article of aptitude is, in my view of the matter, a still greater evil. To the augmentation of aptitude, perfectly inoperative will be the 200*l.* a year: not so to the diminution of it. 1,000*l.* a year is a salary for a nobly related puisne, at one of the highest boards. I am fearful of mistakes, and have no time for searches. When Red Books had the salaries to them, 1,000*l.* if recollection

does not mislead me, was the number attached to the office of Puisne Admiralty Lord.

In the heaven of office, there are many mansions. Of a Police Magistrate, the station cannot be altogether upon a level with that of an Admiralty Lord: but the 200*l.* a year will raise the lower office to a level next below that of the higher one. To a reverend youth—even to one born honourable, a spiritual benefice yielding 800*l.* a year is not altogether an object of disdain: eased, as above, of labour, though not so perfectly as in the other case, why should even this temporal one? Without some improvement, *attendance* is a burthen the lay incumbent can not be altogether eased of: *thought* he may be eased of without difficulty. When two Magistrates are necessary, there must be a non-honourable to yield *thought*, but the honourable will serve as well as the non-honourable to yield *auspices*: when one Magistrate suffices, the dignity of the honourable man will need no disturbance. But, the only case, in which burthens so degrading to honourable men will require to be imposed, is an extreme case. Naturally speaking, there will in general be unpaid Magistrates enough, to whom, for the time and trouble of attendance, the power and the amusement will afford sufficient compensation. One of these *suppléans*, the non-honourable, takes care to provide, each time, for his honourable friend and colleague. Thus is the labour of the honourable minimized: and, sadly have his non-honourable colleagues been deficient in what everybody owes to his rank, if the quantity of time actually employed in official duties is anything more than an impalpable one.

Here then, in short, comes the effect and use of this second 200*l.* The first did not bring the place within the sphere of the highly-connected

class: the hope is—that the second will: it will, at any rate, form a basis for a third.

“What makes all doctrines plain and clear?”

“About two hundred pounds a year.”

So stood the matter in Sir Hudibras's time. But now the 200*l.* must have an ever increasing number of others to mount upon.

Seldom, if ever, do I endeavour to overthrow, without endeavouring at the same time to build up. For maximizing the chance in favour of every thing needful, I have a recipe of my own, and that exemplified upon the largest scale; the principle of it will be found in another part of this volume, or in one that will soon follow it. Alas! what hopes can there be for mine? It is the very reverse of the Right Hon. Secretary's. It may serve him at any rate to laugh at. *His* plan excludes experienced Magistrates, admitting nobody but nominal Barristers. Now then comes the laugh:—the most efficient and approved of House of Commons arguments. *Mine* admits nobody but experienced Magistrates; excluding Barristers, nominal and real all together.

My plan serves at once for aptitude and attendance. As to aptitude,—for *that* I require, as a qualification, previous admission into the Magistracy, and thereafter, unpaid, but constant and adequately proved attendance, at some one of the existing offices; attendance for a certain length of time, say five years: to wit, when from the commencement of the plan that length of time has elapsed, and till then for as great a length of time as can be had.

Now for a contrast, between my experienced Magistrates, and the Right Hon. Secretary's unfledged Barristers, adding, if so it please him, any number of grey-headed ones.

1. As to moral aptitude, my Magistrates will have been engaged in the exclusive support of *right*,—or at least of what the *legislature* has pronounced *right*,—and the exclusive repression of *wrong*,—or at least of what the *legislature* has pronounced *wrong*. His Barristers will have been occupied either in nothing at all, or in what is so much worse than nothing, promiscuous defence of right and wrong, with the universal predilection for wrong, as being the best customer.

2. As to intellectual aptitude, composed as it is of appropriate knowledge and judgment, my magistrates will, for the whole of their unremunerated length of time, have been employed, on the very spot, in study, and occasionally in practice, in the very field for which it is proposed to engage their remunerated services; in the whole of that field, and in no other than that field, to their consideration will have been subjected, in all their varieties, all sorts of cases which can have grown up in that same field. The Right Hon. Secretary's Barristers, with their 800*l.* instead of 600*l.* a-year—how will they have been occupied? My answer has been seen already. The Right Honourable Secretary's answer the country will be grateful for, if he can find any. But they may have been not only Barristers, but Barristers in full practice, and all the while not knowing anything more of the business of a Police Magistrate, than if they had been all the while fighting as army officers. Of practising Barristers there are about as many equity as common lawyers. Now in a Police Magistrate's practice, what is there that has any thing in common with equity practice? Let him bestow a glance on the Table to *Maddocks's Equity*, and then on the Table to the last edition of *Burn's Justice*, or whatever work

has now supplanted it, and see whether this is not strictly true. To those abstracts I venture in kindness to refer him, long as the road through may seem to be, as being shorter than through the mazes of his walking dictionary. Those he might get by heart, sooner than an intelligible answer from his oracle; a negative the oracle would not venture to give, and an affirmative he would not choose to give.

3. Lastly, as to appropriate *active* aptitude. On the part of my Magistrates it would be a maximum. By every motive they would be impelled to render it so. At the hands of the Barrister, what his Right Hon. Patron does not require, is activity in any shape; all he does require, is existence.

As to attendance, and the means of securing it, to a great degree it is already comprised in the active aptitude just spoken of. But, in whatever possible degree he chooses to have it, he may have it if he pleases: nobody who does choose to have it, ever fails of having it. I will not attempt to trouble him with particular proofs, and they are already in one of my waking dreams.* In manuscript they are already in another or two, and will ere long be in print, if I live.†

This plan would suit both classes. The expectant stipendiaries would not be disinclined to attend, since it would increase their chance of the preferment; the existing stipendiaries would not be disinclined to be *attended for*, since it would increase their ease. How much soever superior

* Draft of a Judicial Establishment for the use of the French National Assembly, 1790 or 1791: printed and distributed, but not sold.

† 1. Constitutional Code, Judiciary part. 2. Procedure Code preceded by the Judiciary part of the Constitutional Code.

the 600*l.* a-year ones may be, to their exploded predecessors the 400*l.* a-year ones,—were they to leave the burthen of the day altogether to the still superior expectants, if such they should prove, the public would not, any more than these same parties, have, in this quiet arrangement, any reason to repine. Ahab had served Baal a little. Jehu hath served him much. What prospect have I not opened ! What an Epicurean heaven ! Thirty 600*l.* a-year places, and all sinecures ! So many temporal Prebends and Canonries ! With such a *pot-pourri* of sweet arguments, what is there that could not be proved ? Laughable and delectable all this—true : but would it be the less beneficial ? Not it, indeed.—See Horace's Reports. *Ridentem dicere, &c.*

Suppose not that it is upon this 6,000*l.* a-year alone that all this examination has been expended. The expense is but as a drop in the bucket. The reasoning on which it is supported is no such trifle : if good for 6,000*l.*, not less would it be for 60,000*l.*, for 600,000*l.* or 6,000,000*l.* More than even this might, if duly looked into, be seen perhaps to stand upon no better grounds. Be this as it may ; by any one in whom curiosity is strong enough, it may be seen how admirable a match it makes with that, on the ground of which Burke for the Whigs, followed by Rose for the Tories, proved, as another part of this volume will show, the necessity of draining, out of the pockets of the productive classes, the last drop of the matter of wealth that could be squeezed out of them, consistently with the continuation of their existence. Practice, it is true, cannot be always rendered altogether co-extensive with theory ; but, whether the theory actually pursued as a law by Government, under the really

existing form of Government, and under the fictitious entity, called the *Constitution*, is not the thing actually avowed by both parties, may be seen without other trouble than the turning over a few leaves.

Mr. Martin, if eyes or *Morning Chronicle*, April 2, 1825, do not deceive me,—Mr. Martin, of Galway, treading in the Right Hon. Secretary's steps, and, with a copy of the above speech, I presume, in his memory,—stands engaged, on the 12th of May, to extend his protection to Judges, and I know not what besides. While his protection was confined to the helpless and persecuted part of the creation, I followed the Honourable Gentleman at an humble distance. But, if nothing will serve him but the extending it to those bipeds with gowns and wigs, instead of feathers, whom I had almost called v——n, which would have been as bad as *refuse*,—to those whose every-day occupation is depredation, and every-day employed instrument a lie,—here I feel it impossible to go on with him. Were it my good fortune to be honoured with his confidence, I would beg him to stop where he is, and not suffer a hand admired (and vainly endeavoured to be made ridiculous) for its beneficence, to be converted into a cat's-paw: let those (I would say to him) let those who are to eat the chesnut put paws upon pates, and beg for it.

Let me not be mistaken. When I had like to have said v——n, what I had in view were fee-fed Judges: the only sort, alas! which matchless Constitution has yet bred: men, to whom, and so much more than to the man of finance, we are indebted for the so little less than universal denial of justice. If, instead of adding, he would substitute salaries to fees, I would consent to shut my eyes against the amount, howsoever extravagant it might prove.

The fees to be compounded for would have been—not only the fee avowedly extorted, but the unhappily so much more abundant stock surreptitiously received: received by these so erroneously supposed uncorrupt hands. They would be—not only the fees exacted by superintendants in their own name, but all those exacted under their authority, by respective subordinate holders of offices, of which they have the patronage. For, who is there that does not know that an office in a man's gift has a no less decided marketable value than an office of the same emolument in his possession? True it is that, compared with the value of the possession, the value of the patronage may be to any amount less: not less true is it, that it may also be, and that it not unfrequently is, fully equal. Let Lord Eldon say, how much less worth to him the many thousands a year he has put into his son's pocket are, than if it had been his own? Let Mr. Peel, if he feels bold enough, look into the documents, and tell us, in his place, how many those thousands are.

To the number of the offices, the emolument of which a man can pocket with his own hand, there are limits: to the number of the offices, the emoluments of which he can thus pocket through other hands, there are no limits; and, in any number of instances, the *protégé's* life may be worth more than the patron's.

Who is there that does not know, that the value of an office to the incumbent is directly as the emolument, and inversely as the labour? Who is there that does not know, that to the patron the value of it is directly as the inaptitude of the *protégé* he has it in his power to put in and keep in it, since the more consummate this inaptitude, the less his choice is narrowed? Who is there, for example, that does not know, that it is to the union of these

two characters that spiritual offices in particular are indebted for their transcendent value? Who is there that can deny, that while this mode of payment lasts, interest is, in all Judges, at daggers drawn with duty?—that it is from this cause that suits take up as many years as they need do hours, and as many pounds as they need do pence?

Who is there that can deny, that it is from this cause that our system of judicial procedure is what it is? and that, through the whole texture of it, Judges having been the manufacturers,—delay, expense, and vexation, have been maximized, for the sake of the profit extractible out of the expense?

Yes: by such hands made, to no other end could it have been directed.

The Chief Justice of the King's Bench, has he not the nomination to the keepership of the prison named after his judicatory? If so, then to the profits of the bench are added the profits of the tap: and the money which Justice would have returned to the hands of the creditor, is extracted, through this channel also, into the pockets of the Judge.

Same question as to other chiefships,—whether, as between one and another, consistency in this respect, or inconsistency, is the rule: also of that which is about to be squeezed by jailor out of debtors and creditors, how much is, in advance, squeezed out of him by Judge: questions these, none of them surely unfit to be put by Mr. Peel before he gives his support to the Advocate of innoxious beasts and pre-eminently noxious Judges.

Originally, though pregnant with depredation and oppression as it could not but be, payment by fees was matter of necessity: for judicature was necessary before kings had money to pay salaries.

For these three-and-thirty years past, it has been

without excuse. The corruption continued has been continued with open eyes.

When the trade of *trading Justices* was put an end to—(this was the name then given to Middlesex Magistrates)—it was undoubtedly for this same cause; it was because, in their small way, they made and protracted suits, for the purpose of multiplying fees.

When this small branch of the trade was put an end to, it was by the self-same remedy, I am now venturing, with how little hope soever, to propose. So far as concerned corruption, success could not be more complete. Salaries were substitutes to fees, and in that form the plague ended.

When fees had thus given place to salaries, what disorder there was took an opposite turn. While the fees flowed into the judicial pocket, there was too much activity: now that, if any come in, they take a different direction, if report is to be believed (see above p.) there is not enough of it. Lethargic not excitative is now the character of the disease. Beyond comparison more mischievous than the lethargic is the excitative, though when the specific is applied, so much easier to cure.

If in the case of the trading Judges called *Magistrates* the remedy was needful, how much more bitterly needful is it not in the case of the trading Judges called *Judges*? Look to mischief, profit, temptation, check: look to the two fields of mischief; take measure of their extent.

Under the *trading Justices*, the delay manufactured may be reckoned by *days*: under the *trading Judges*, by *years*.

Under the *trading Justices*, expense imposed on suitors may be reckoned by *shillings*: under the *trading Judges*, by hundreds and by thousands of pounds.

Of the jurisdiction of the trading Justices, local field, Middlesex, with or without the now added three other home counties; of the trading Judges, England: local field, in both cases, far too irregular for measurement. Chaos bids defiance to the theodolite: what is sufficient is—that in the case of the trading Justices, the sum of the scraps is a trifle, compared with what it is in the case of the trading Judges.

Under the trading Justices, the *profits* of the trade may be reckoned by *hundreds* a year: under the trading Judges, by more than as many *thousands*.

Honourable Gentlemen, will they always be so weak as to believe, or so transparently insincere as to pretend to believe, that while the temptation afforded by the *hundreds* was irresistible, the temptation afforded by the *thousands*, was, is, or can ever be, without effect? Mr. Peel,—does he believe this? His noble, learned, and consistent Friend, who, if you will believe him, is purity itself,—does *he* believe this?

Honourable Gentlemen,—will they always believe, or affect to believe, that it is in the power of a masquerade dress to change man's nature, and that a contagion which a coat could not resist, has been, and is resisted by a gown with a strip of fur sewed to it? Mr. Peel,—does he believe this? The noble, learned, and consistent Friend, who is faith as well as purity personified,—does he believe this?

So much for mischief—profit—temptation. Now as to *check*, in one sense of the word, *responsibility*.

The trading Justices had Judges over them: Judges, by whom,—if haply, in an extreme case, money could be raised sufficient to buy a hearing for a cry for punishment,—they might be punished:—Judges, who, though not fond of punishing any

man with a King's commission in his pocket,—might thereupon, by fear of shame, be peradventure driven so to do, if the case were flagrant.

The trading Justices had Judges over them. To any practical purposes the trading Judges have none: head of them all is the Lord Chancellor: head over himself is Lord Eldon: over Lord Eldon in Chancery, Lord Eldon in the House of Lords. Charge him with creation or preservation of abuse—of delay, expense, vexation, uncertainty,—motive, either none at all, or the profit upon the expense;—he names the inquisitors by whom the inquisition is to be made. The rehearsal of this farce has been performed. When the curtain comes to be drawn up—if there be hardihood enough to draw it up—will the plaudits of a plundered people welcome it?

Remains still untouched the effective responsibility. Impunity wanted much of being complete in the case of the trading Justices: it wanted nothing in the case of the trading Judges. Here the word *responsibility* is mockery. Action, none: indictment, none: pretence of impeachment, a cloak: consistently with legislation, impeachment is physically impossible. Time would suffice for rendering it so, even if accusers were to be found, and where is the inducement for accomplices to become, some of them informers, others of them Judges?

Thus much for impeachment. Address of both Houses is impeachment under another name.

Trading Justices never *made law*. The trading Judges have always made it, continue to make it, and, so long as the pretended law-makers suffer them—which they find no small convenience in doing—will never cease making it.

Yes: made it they always have, and above all

things for the sake of the trade. Accuse them—you do so in the teeth of a law made by themselves to punish you for it. The counterfeit and Judge-made law is even more effectual than a real one would be: for, on each occasion, it is moulded at pleasure: moulded by those who, having made it for the purpose, execute it.

Were I to see a Judge taking a bribe—should I tell of it? Not I, if I had common prudence. The person punished would be—not the Judge for taking the bribe, but I for telling of it.

Thus, and hence it is—that, on the part—not only of all Judges, but of all whom they delight to favour—including all whom “the King delighteth to honour”—virtue is consummate, character immaculate.

But why talk of imaginary things, such as *bribes*, when by the real things, called *fees*—fees made lawful by those who pocket them—the work of corruption—of sure and self corruption—is carried on; carried on in open day—carried on without fear or shame—in the face of the so long plundered, and though so often warned, yet still deluded people?

No: never surely was grosser delusion than that by which English Judges are exhibited as models of uncorruption. In whatsoever shapes they could practise it without danger, they have always practised it: and of this practice, their system of procedure, composed of depredation and denial of justice, has been the fruit. Never (it is said and truly) never was English Judge known to take a bribe. No, verily, for how should he? Bribery requires two: a receiver and a giver. Receiver a man cannot be without putting himself

into the power of the giver. Since Bacon, no English Judge has been weak enough to do so ; and so there can be no receiver. This is seen by every body : and so there can be no giver. What, in England, should induce a Judge thus to expose himself, when, without exposing himself, he gets more in abundance than, in any other country, Judge ever did by anything he could do to expose himself? What should induce him to take, of this or that man, with fear and trembling, money in the shape of a bribe,—when, by money exacted by taxes, levied on all men without distinction, by force of a law made by his predecessors, or perhaps by himself,—he is permitted, under the name of *fees*, to pocket more money than Judge ever received elsewhere in the shape of bribes? Give a man whatsoever he would steal from you, you may prevent his stealing it : whatsoever a man desires to exact, give him power to exact it *by* law, you may prevent his exacting it *against* law. Of this sort is the antiseptic, the infallibility of which has received such ample proof in the case of English Judges.

As to bribery so called, what is the real preservative against it? Publicity:—that most efficient and sole safeguard, which these incorruptibles ever have been, and even now, with the eye of the public full upon them, never cease labouring to destroy. A judicatory on which life and death depend, is not (if you will believe Judge Bailey) is not a *Court of Justice*. Why? because if you will admit this, a certain quantity of nonsense, with the word *prejudging* in it, may suffice for keeping the doors of it closed. Admit this, and you may see the doors of the Westminster Hall judicatories equally closed. Give them

this, you may do anything with them : with as little ceremony they will be ready to give up their own title to the appellation of *Courts of Justice*. Were they so to do, no contradiction would the position receive from me : all I should object to, is the practical conclusion drawn from it.

With Lord Eldon you will have little difficulty. He has long been working at the change. So frequently open are the doors of his closet,—to shut the door of his hitherto mostly open Court, will be, one of these days, a motion of course. They may however be thrown open now and then, for occasions of parade : whereupon Bar will be seen arguing while Court writes dockets, reads letters, or takes a nap.

A kindred and eminently convenient policy is—the giving to chambers of judicature such a size and form, that no *lay-gents* can find entrance. True it is that by this device, ingenious as it is, the guardian influence of the Public-Opinion-tribunal cannot be entirely destroyed ; for lawyers cannot be altogether prevented from becoming writers, and betraying the secrets of the Court. It may however, by this means, be in no inconsiderable degree weakened. How much more effectual instruments of this policy brick and mortar are, than rules of Court can be, is no secret. All that rules could do, is the rendering admission difficult : properly placed, brick and mortar render it impossible.

English Judges incorrupt indeed ! Those who talk in this strain, what is it they can mean by it ? Did they ever see or hear of a Judge who was not completely at the *command* of the Corruptor-General ? Places for sons, daughters' husbands, nephews, nieces' husbands, friends, and friends' friends—and, to crown all, coronet for self—None

of these things are bribes : true : but are they the less irresistible ? Are they the less corruptive ? But why speak of *command* ? Far short of the real strength of the corruption—of the corruptive longings, and consequent courtings, and consequent compliances with presumed desires,—comes the view which that word gives of it. From any such superior, to any such subordinate authority, no such explicit expressions of will ought to be, none accordingly ever are, issued. Issued ? To what end need they be ? In a situation of that sort, is there a Judge, is there a man, that needs to be told, what will displease, and what will please ? To stand assured with sufficient certainty, not a step need any man stir from his own *home*.

Take, for example, the case of John Hunt. Among the titles of Majesty in this country, is that of *most excellent*. John Hunt, in his *Examiner*, says things which go to impugn that title. Lord Chief Justice Abbot punishes him for this, with loss of 100*l.* under the name of fine, and 90*l.* under the name of *costs* : *costs*, of which the Honourable House could know at any time, if it chose to know, whether anything, and if anything, how much, directly or indirectly, goes into the pocket of the Chief Justice.

Now, then, of the thus punished words, wherein consisted the mischief ? Oh ! says his Lordship, or somebody for him, the feelings of the King were hurt by them. Hurt by them ? How so ? This same hurt—how came his Lordship to be so sure of it ? This said Majesty that now is—did he ever tell him of it ? Did he bespeak any such punishment ? No : the questions answer themselves. To be thus assured, his Lordship had no further to look than into his own learned

breast, and there he saw them ; for, in that repository of fine feeling, what he could not fail to see clearly enough is, that had it happened to himself to hear a man speak in any such strain of his Lordship's father, he would have been indignant, and not sorry to see the blasphemer punished.

By the King that now is, or by anybody for him, does Lord Chief Justice Abbot, or Lord Chief Justice Any-body, need to be told, that obsequiousness to crowns is the road to coronets ?

So much for power and glory. Now as to money. If ever there was a judge, on whose incorruptibility the sound of the trumpet was loud, it was the late Lord Camden. His Lordship was Lord High Chancellor. His son, on pretence of telling out public money, got out of it an income, which, when he gave it up (a bow upon paper is due to him for it) was worth 27,000*l.* a year to him. So much for corruptive intercourse, in a case in which it is not bribery. Now for a case in which it would be bribery. Seven-and-twenty guineas in hand, suppose George the Third saying to the Lord Chancellor—"In this suit (naming it) which I have against such an one (naming him) give judgment so and so, and I will give you these seven-and-twenty guineas,"—would his Lordship have taken it ?—Oh, fie ! fie ! what a thought !—This would have been no better than bribery. Multiply the twenty-seven by a thousand—multiply the product by so many years as the income lasted,—and, though assuredly nobody said what nobody had any need to hear, all is consummate purity.

So much for motives, and the influence of them on conduct : to know which, for the purpose of legislation, which is the purpose *here* in question, never do I look to anything but *situation* : of indi-

viduals I know just nothing, which is just what I want to know. Now as to mischievousness. Of the law thus made, the effect is, and, if it had any, the object was, to establish punishment for everything that can tend to place in an unfavourable light the character of any King that ever lived; while the whole treasury of reward is applied to the purpose of placing those jewels in the most favourable light possible. Probative force of the evidence being in both cases the same, suppression of evidence in favour of one side, is in effect exactly the same thing as forgery of it in favour of the opposite side. Mischievousness of the practice the same in both cases; wickedness of it the same, though the people as yet have not sufficiently learnt to see it.

Keep in force this law, and with a steady hand give execution and effect to it,—the will of Holy Alliance is done, and history, from being the food, is converted into the poison of the mind. Yes, all history. First, as to the supposed injured dead. The protection granted to the manes of the third George, shall it be refused to those of the second, or those of the first? If yes, at what point, if at any, in the line of ancestry, shall it end? Then as to the supposed injured living: if thus wounded by the aspersions cast upon his Royal Father, can the King that now is be indifferent to any such, or any other aspersion cast upon his Princely Grandfather, his Royal Great Grandfather, or his first Ducal, then Royal Great-great-grandfather, &c. &c.? If not, then up go we to Egbert and to Fergus, and so on, through Woden, to Japhet and to Adam. At which of all these points does Royal tranquillity commence?—that degree of tranquillity which will suffice to render truth and history unpunishable?

In this case, by the bye, may be seen, as well as in so many hundred other instances, how much more useful *Judge-made* law is to Parliament itself,—constituted as it is, and looking to the ends which, so constituted, it cannot but look to,—than even its own *Parliament-law* could be made. Parliament itself, would it thus dare to destroy the truth of history, and cut up political science by the roots? But innumerable are the things of this sort which it does every day by the hands of Judges; and which fear or shame would keep it from doing by its own.

These things (unless the last-mentioned one be an exception) being so manifest, and so almost universally acknowledged to be true, that, on account of their notoriety, the very mention of them is fastidious,—what less can follow, than that to all purposes to which corruptness is to the greatest extent mischievous, a state of constant corruptedness is the state in which every Judge has been that ever sat upon the English bench?

In cases between King and subject, in which the mischief of it consists in giving countenance and increase to depredation and oppression, for the benefit of his Monarch, his associates, and dependents,—the disease is incurable: its root is in the form of government. But in suits between subject and subject, in which the mischief consists in giving countenance and increase to depredation and oppression by Judges (the present Judges at all times excepted, whatever they have been, are, or will be) for the benefit of Judges, their associates, and dependents, the disorder is not incurable.

A few words more as to the remedy, but for which the disease would not have here been mentioned. The principle has been seen. The

public are indebted for it to Lord Colchester. His was the original Middlesex Police Magistrate Act, 32 Geo. III. c. 53, anno 1792. Time enough for amendment, the Bill found its way, somehow or other, into my hands. Time for scrutiny I could not afford. My approval was pure and simple. Sheridan opposed it in Honourable House. Objection, encrease of patronage—a Whig complaint, never grudged when non-redress is sure: a few words might have dissipated it, but they were words that could not be heard there. Subject of the objection—either the *source* of the delegated power, or the *quantum* of it. Applied to the *source*, the objection (an unanswerable one) went to the form of government; it applied to every part, present and future, of the official establishment: applied to the *quantum*, it supposed a certain quantity of corruption needful: and, as such, requiring to be protected from censure by the word *influence*: all above needless; and, that it might be game for the Whig hunt, licensed to be hallooed at by its proper name. Applied to every future addition to the establishment, the objection sought the exclusion of every good, to the introduction of which,—and the perpetual continuance and increase of every evil, to the diminution of which,—any such addition should be necessary.

No such desire as that of applying a bar to the increase—to the addition of corruption to influence—was really entertained. In Honourable House the disposition to keep influence within its bounds, whatever they were, had place or it had not. If no, objection to increase was useless: if yes, cancelling an equal quantity of sinecure would afford the same general security, without depriving the public of the benefit of the particular measure.

To return to the true remedy: it was a specific. In the Finance Committee of 1797 and 1798—the groundwork of such economy as the form of government admits of—Lord Colchester applied it, and with success, to some of the Administration Offices. It stopped there. Judicial corruption was in an ark too sacred to be touched. In both Houses, whatsoever was Learned would have been in a state of insurrection. Learned Lords were above shame. Ministers were not above fear: so there the reform rested.

Since then the public mind has made some advance: whether sufficient for the substituting of justice to depredation and corruption, time will show.

To return to Mr. Martin and his new *protégés*. By his humanity he got nothing but ridicule: from his liberality he may hope better fortune. No Honourable Gentleman, who, for self, son, brother, cousin, or friend, has ever refreshed his eyes with a glimpse of the remuneration fund, can consistently harbour a doubt of the insufficiency of it. Whigs form no exception: for, though possession is not theirs at any time, expectancy is at all times. In the maximization of expense, it unites them in interest with Judges. With what aspect they behold the County Courts Bill may be seen without looking at their eyes. Saving to suitors would be robbery to these their protectors, while in the patronage they have no share. Everything they say against it,—everything they can seek to clog it with,—is a certificate in favour of it. A measure with this object cannot have a stronger one.

By this his liberating scheme, who knows how many supporters he may not have brought over for his humanity scheme? How profound soever

their contempt for their betters (for, when educated, as they sometimes are, and always may be, quadrupeds have the virtues without the vices of featherless bipeds) how profound soever their contempt—how complete soever their indifference,—men's hatred for these animals, can it, to any considerable extent, be greater than their love for themselves?

As to his instrument of purchase—his announced vermin-gorging Bill—he could not have chosen a more promising one. This measure is of the number of those, which even an Opposition Member may be admitted to carry, and in which success can scarce be dubious. Reasons are ready stationed in each Honourable breast. They stand upon a rock; and *Calculation* is the name of it. What will my share of the annual charge amount to? A few half-pence a-year—what I toss now and then to a beggar to get rid of him when he is troublesome. Thus much on the debtor side: now, *per contra* creditor. So many more thousands a year for my son, my nephew, my cousin, or though it were but my cousin's cousin, when his time comes, which it can scarce fail to do, for taking his seat in a certain place. For, calculation being settled in the head, then, from hand or lungs, comes the substance of the universally-received economico-mathematical truism—official aptitude is in the direct ratio of ditto remuneration:—a proposition, which, to render it really true, requires nothing but the substituting to the word *direct*, the word *inverse*. Thereupon comes a flower or two, such as the Right Hon. Secretary's rhetoric has just been seen scattering over the subject:—virtue, displayed and appealed to, generosity: dignified virtue displayed, in the penetration manifested, by seeing through the cloud which the word *economy* (pro-

nounced with a shake of the head—"poor economy!") had, in the head of vulgar ignorance, thrown over the question. Natural and customary result,—“hear him! hear him!” from all quarters. Is anything ever said on the other side? If yes, it is for form sake, with a sort of faint, and as if self-condemning tone, nor even this but under the most satisfactory assurance, that the measure will not be hurt by it.

While upon this ground, I cannot pass over altogether an error, for such I am persuaded it is, on the part of Mr. Peel, as to a matter of fact, and which remained unnoticed before because foreign to the purpose. In England, according to him (No. 8.) Judges are worse paid than “in almost any other country in the world.” Not that, even if admitted, the fact would serve his purpose. It would run counter to his purpose. For, if not the only incorruptible, English Judges (so almost everybody has hitherto been in the habit of saying) are of all in the world the most incorruptible. Well then—this incorruptibility—forasmuch as by what you are paying for it you have got it already,—why pay anything more for it? This question would be unanswerable, were it not for the argument *ad verecundiam*: men, who perform so charmingly, can you be so ungenerous as to let them serve at an under price, when it would be so easy for you to give them a fair price? The argument is worthy of the nursery, and perhaps has been inherited from it. The child is gorged with meat, but spies out cake, and cries for it. “Dear sweet poppet (says grandmother to mother) can you be so hard-hearted as to let it cry on, only to save a little bit of cake?”

So much for argument: now for fact. Talking with a Frenchman t’other day on this subject,

50*l.* a year, he assured me—50*l.* and no more, is the salary of that class of Judges, by which by far the greatest part of the business is done. “Well, but don’t they take bribes?”—“No such thing. On the contrary, the country is universally satisfied with them:” just what we have seen the Right Hon. Secretary assuring us of, in the case of the 600*l.* a year Magistrates. The Right Hon. Secretary, having it in charge to find his 600*l.* a year insufficient, its sufficiency notwithstanding, had somewhat of a bias upon his mind. According to the Right Hon. Secretary, with these his 600*l.* a year Magistrates, the country is universally satisfied. But then, as has been seen, though satisfied, he is at the same time dissatisfied with them: and besides, their aptitude being to be proved as well as disproved, he had something of a bias, though a shifting one, upon his mind. The Frenchman had no such bias. He is himself neither Judge, Magistrate, nor Lawyer; nor patron, with reference to any who are. He is a man of estate, birth, and connection; and, though all that, a man of information and discernment. It did not occur to me to cross-examine him as to fees: but, as what we were talking about turned upon what was the whole of the emoluments, I cannot but think that if there are fees, they are fees of which neither the magnitude can be encreased, nor yet the number extended, otherwise than by the satisfaction afforded by good judicature; and that, if any at all, the 50*l.* does not receive from them any such encrease as would affect the argument. I for my part would not give for them another 50*l.*

This, though, if it were anything to the purpose, it might surely serve for enquiry,—is not official. What follows is. Printed “Register of Officers and Agents, &c. prepared at the Department of State.”

Date of Congress Resolution, 27th April, 1816. Printed anno 1818, at Washington, page 18. Judiciary of the United States Supreme Court. Chief Justice, dollars 4000; not so much as pounds 1000. No Equity, put above Law, to stop and overrule it. Compare this with Lord Eldon's 23,000*l.* a year (those who make least of it make this) with so many other thousands for his son; not to speak of the thousands a year salaries of the minor and common law Chiefships, and Puisneships, and Masterships, besides the ever corruptive fees. Before the words "*every other country*" stands indeed, in one of the Reports of the Right Hon. Secretary's Speech, (No. 8.) the limitative word "*almost*:" let any one judge whether it was not a prudential one.

A thing more to be wished than hoped for, is—that, in the Right Hon. Secretary's situation and those associated with it, Right Honourable Gentlemen and Noble Lords were a little more careful than they sometimes are, when speaking to facts, especially distant and complex ones, such as those in questions like this more especially. By Lord Liverpool, not many years ago, if recollection does not greatly deceive me—by Lord Liverpool it was declared and insisted upon, that in this country (population for population he could not but mean) the expense of the Official Establishment was less than in the United States. Proceeding in this strain, had he entered upon particulars, the King (he would have had to say) costs this country less than the President does the United States. So much for first Treasury Lord. Right Hon. Secretary—would he, after speaking upon the particular branch of the expenditure now in hand, as he has done—would he, after Parliamentary enquiry into the facts, consent to pay the Judicial Establishment

upon the same scale as it is paid, in that country, in which, to use his own phrase, it is so much less parsimoniously paid than in this? Not he, indeed! What is it (he would then turn upon us and ask) what is it to the purpose, what people do in other countries?—in countries in which the state of things is so different from what it is in our own? Is it for us to receive laws from other countries?

In a Committee of his own nomination, will he be pleased to elicit the evidence by which the correctness of this assertion of his will be proved? He knows better things. What use (he would ask) is getting up evidence from which nothing is to follow? Lord Liverpool—will he consent to assign, to the whole Official Establishment, the same rate of remuneration as that which his place in the United States?—General Government and particular States always included. To no such insidious proposal would his Lordship give acceptance. His love for the people and for economy is too sincere, to suffer him to pledge himself to an innovation, from which the dear people would have nothing to gain and so much to lose.

On pain of ignominy, a helpless radical must maintain, whether he will or no, some caution in regard to his facts: were he to make a slip, he would never hear the last of it. High situation places a man at his ease in regard to facts. As often as occasion requires, he may let fly insinuations or assertions, such as the above, and thenceforward hear no more of them than he pleases. Should any unpleasant use of them be endeavoured to be made, up comes the rule: "No allusion to anything said in a former debate." Good, if responsibility be good for nothing: not so clearly so, if responsibility be good for anything. So

far as regards facts, it is a counterpart to that mendacity licence, which, in Scotch Reform and elsewhere, has been held up to view as one of the pillars and main instruments of English Judicature.

Throughout this examination, I have never been altogether free from feelings of compunction, at the thoughts of the sort of liberty all along taken with the Author of the Special Jury Bill. On the present occasion, I found him doing as, in his place, every body else has done. On that other occasion, I see him taking a course peculiar to himself. Time does not at this moment permit me so much as to read the Bill. I cannot therefore, on the ground of any opinion of my own, venture to say a syllable of it. But, if it does but completely substitute, as I am assured it does, *lot* to *packing*, and is in other respects what it has been certified to be, by those whose discernment and love of justice I stand assured of, it will, by this one measure, ensure to him a stock of popularity and public confidence, such as I tremble but to think of.

Should this measure be carried through, he must however content himself, as well as he can, with the reputation of probity: for as for that of consistency, it will quit him, and seek refuge in its chosen seat, the bosom of his Noble and Learned Friend. Consistency being where it is,—how anything of this sort should have found its way into the Secretary of State's Office, is the mystery of mysteries!

One word more as to patronage. On the present occasion, it is to the lessening the value of it to the Honourable Secretary that my endeavours, such as they are, have been applying themselves. Yet, so far am I from grudging him any good

thing obtainable without preponderant evil to the community—in the case of the County Courts Bill, no desire a man in his place can have, for feeling the patronage of it is in his own hands, can be more sincere than mine for seeing it there. Supposing the situation equally acceptable to the only class of expectants worth providing for, here is a stock of patronage worth at least three times as much as that other.

County Court Judges, thirty: salary of each, 800*l.*: this gives 24,000*l.* a year—thrice as much as the 6,000*l.*

No hands can I find anywhere, which, in point of aptitude (matchless Constitution standing as it stands) would bear a thought in comparison of his. Lord Lieutenants?—they are so many invisible objects. In the High Court of Public Opinion, nobody will see them, nobody will know who they are. The Judge chosen by each will be chosen of the family most connected in the county, which is as much as to say, the most unapt that could be chosen. Armed as he is like any Achilles, still the place of a Secretary of State is at the bar of public opinion, and he stands an object to all eyes. Here are mine, for example, weak as they are, yet better perhaps than none, thus watching him: could they keep running after thirty, or I don't know how many more, Lord Lieutenants?

Chancellors!—"aye—there's the rub." Sooner than see the patronage in the hands of the Model of Consistency, or even of any other English fee-fed Judge,—sooner, much sooner, would I see it added to the *porte-feuille* of the Chancellor of France.

SPEECH of Mr. SECRETARY PEEL, on introducing the Police Magistrates' Salary Increase Bill, 21st March, 1825. Extract reported in the Times and the Morning Chronicle, of the 22d:—

TIMES.

1.

He held in his hand papers, from which, if he chose to enter into any detail, he could prove to the satisfaction of the Committee, that since the Institution of Police Magistrates, the business which devolved on those individuals had, owing to various Acts of Parliament which had been passed, independently of the increase of population, greatly augmented. *Although that circumstance would of itself be a sufficient reason for increasing the salary of the magistrates,* he rested his proposition upon grounds which he hoped the Committee would consider even more satisfactory.

MORNING CHRONICLE.

1.

He held papers in his hand, showing in the clearest manner the great *increase* that had taken place in the business of the Police Offices since their first institution, arising from the great increase of the population of the metropolis amongst other causes. It appeared from those papers, that since their first establishment, considerable additions had been made to the business of the Offices, by various Acts of Parliament, passed at different times, but he would lay his proposition upon stronger grounds.

2.

When the Police Magistrates were first appointed, it was the practice to select individuals to fill the office who, he must say, were incompetent to discharge the duties which devolved upon them. He found from the papers which had been laid upon the table, that out of twelve Police Magistrates appointed at a former period, there were only three Barristers, the rest were composed of a Major in the Army, a Starch Maker, three Clergymen, a Glasgow Trader, and other persons who, from their occupations, could not but be considered as utterly unqualified to perform the duties of Magistrates.

3.

The law had fixed no limitation with respect to the previous education of persons appointed to the office of Magistrate, but he thought the Committee would be pleased to hear, that a limitation on that point had been *prescribed* by the Secretary of State. Neither his predecessor in office (Lord Sidmouth) nor himself had ever appointed a person to fill the office of Magistrate who had not been a Barrister of three years standing. That was a rule to which, in his opinion, it was *most desirable to adhere*.

4.

But in order to enable the Secretary of State to abide by

2.

In the first instance, the salaries of the Magistrates amounted only to 400*l.* per annum, it was afterwards raised to 600*l.*, but, it was well known, that under the former regulation the persons appointed were totally *incompetent* to the duties. He found that of the twelve Magistrates first appointed, three were Barristers. One was a Major, three Clergymen, two Starch Dealers, and one Glasgow Trader.

3.

He thought the Committee would be pleased to hear, that though there was no limitation fixed by law to determine the eligibility of the persons to fill such offices, Lord Sidmouth and himself had confined themselves strictly to the appointment of *Barristers alone*, and had not nominated any to the office of Magistrate who were of less than *three years* standing. He would ask the Committee, under those circumstances,

4.

whether 600*l.* a year could be sufficient to tempt a profes-

that rule, and to carry it into practice, it was necessary to augment the present salary of Police Magistrates. He implored the House to consider, whether 600*l.* a year (the present salary) was sufficient to induce a Barrister to give up the emoluments of private practice, and the hope of preferment in his profession, to undertake the duties of a Magistrate,

5.

which required their *almost constant attendance*? It could not, he thought, be considered an unreasonable proposition, that in future the Secretary of State should *be empowered* to give to each Police Magistrate the sum of 800*l.* per annum.

6.

He hoped that he should *not* be told, that individuals might be found who would be willing to undertake the magisterial duties for a less sum. It was very true that *such was the case*. He was constantly receiving applications from persons who were anxious to be appointed Police Magistrates. Those applications proceeded principally from *Country Magistrates*, who had discharged the duties of *their office ably and satisfactorily*; but whom nevertheless he did not think right to appoint to be Police Magistrates in the metropolis. He held the unpaid magistracy in as high respect as any man, but he could easily conceive that a

sional man of *adequate abilities* to relinquish their hopes of rising at the Bar?

5.

The duties at the office would require his constant attendance, and the Committee, he thought, would not consider it unreasonable to *empower* the Secretary of State to grant them each a salary, not exceeding 800*l.* a year.

6.

It was true, he might be told, that there were many individuals now ready to accept those offices; but though that was certainly the case, they were most of them country gentlemen, who had discharged the duty of Magistrates in their respective counties, but that was no reason why they should be selected to fill the situation of Police Magistrates in the metropolis. He respected, as much as any man could, the unpaid magistracy of the country; but it did not follow, that because they were enabled by the weight of their character and influence to perform the ordinary routine duties of County Magistrates,

gentleman might, in consequence of the influence which he derived from local circumstances—the relations of landlord and tenant for instance—be able to discharge the duties of a Country Magistrate, in a satisfactory manner, who would be incompetent to undertake the important ones of a Police Magistrate.

7.

'Police Magistrates' was the name generally given to those magistrates to whom he alluded, but those persons were mistaken who supposed that the duties which they had to perform were merely executive. They were called upon to administer the law in a great number of complicated cases which were submitted to them. Out of some recent Acts of Parliament some very important questions arose, which the Police Magistrates were called upon to decide. Several nice cases had occurred under the Building Act. He knew one case of that description which had occupied the attention of the magistrates *for a couple of days, during which surveyors had been examined on both sides.* He thought that a salary of 800*l.* a year was not more than a fair remuneration *for the practice which a Barrister must abandon when he undertook the duties of a Magistrate.*

8.

It appeared to him, that the

they were competent to discharge the more arduous business of the police in this city.

7.

Many Acts of Parliament had increased the duties of those offices; important questions in civil causes often came before them, and under the Building Acts they were often obliged to hear the evidence of surveyors on each side, and to determine many points which required a considerable degree of legal knowledge. He would rather rest his proposition on that single statement, than enter into the details contained in the papers which he held in his hands.

8.

It appeared to him, that this

individuals appointed to administer justice in this country were more parsimoniously dealt with than in almost any other country in the world. He thought this was poor economy, to give inadequate remuneration to individuals selected to administer justice, whether in the *highest office of judge*, or in the less important but still very important office of *Police Magistrate*.

9.

He might, he did not doubt, get persons—

10.

those persons *who could not succeed in their profession—the refuse of the bar*—to fill the office of Police Magistrate at a lower salary than he proposed to give—he could save 100*l.* or 200*l.* a year by such a proceeding, but the public would have cause to lament it.

11.

The present Police Magistrates were of the highest personal respectability, and performed their duties to the great satisfaction of the country. They were thirty in number, only four of whom were not barristers. The Right Hon. Gentleman concluded with moving, “That it is the opinion of the Committee that each Justice appointed, or to be appointed, under the Act for the more

country was more parsimonious in its provisions upon the administration of justice than any other, and he was sure that there could not be a worse economy than such saving, either with regard to the highest or to inferior officers.

9.

The great object should be to procure persons qualified to discharge the duties [hear, hear!]

10.

To tell them that they might take the *refuse of the bar*, would be to recommend a course which the public would soon have reason to lament. Upon those grounds he trusted that the Committee would not consider the addition of 200*l.* a year to their present salaries too much to remunerate them for the services of the Police Magistrates.

11.

They were acquainted with the character of the individuals who filled those offices at present. *Their knowledge, experience, and respectability, were unquestionable.* They were thirty in number, and their services had already proved the importance of the duties they had to fulfil. The Honourable Gentleman concluded with moving a Resolution—“That each of the Justices

effectual administration of the office of Justice of the Peace, shall receive a salary not exceeding 800*l*."

appointed, or to be appointed, to the Police Offices of the Metropolis, shall be allowed a salary not exceeding 800*l*. a year, to be paid by one of his Majesty's Principal Secretaries of State."

THE END.

THE
LIBRARY
OF THE
MUSEUM
OF
COMPARATIVE ZOOLOGY
AND
ANATOMY
OF THE
MUSEUM OF
COMPARATIVE ZOOLOGY
AND
ANATOMY
OF THE
MUSEUM OF
COMPARATIVE ZOOLOGY
AND
ANATOMY

THE
LIBRARY
OF THE
MUSEUM
OF
COMPARATIVE ZOOLOGY
AND
ANATOMY
OF THE
MUSEUM OF
COMPARATIVE ZOOLOGY
AND
ANATOMY

1875

1875

1875

1875

INDICATIONS

RESPECTING

L O R D E L D O N,

INCLUDING

**HISTORY OF THE PENDING JUDGES'-SALARY-
RAISING MEASURE.**

BY

JEREMY BENTHAM, Esq.

BENCHER OF LINCOLN'S INN.

LONDON:

PUBLISHED BY ROBERT HEWARD,

WELLINGTON STREET, STRAND.

1825.

INDICATIONS

RESPECTING

LORD ELDON.

INCLUDING

HISTORY OF THE FINDING JUDGES-SALARY-
RAISING MEASURE.

LONDON:

PRINTED BY C. AND W. REYNELL, BROAD STREET,
GOLDEN SQUARE.

JEREMY BENTHAM, ESQ.

FRANCHISE OF LONDON'S BOR.

LONDON:

PUBLISHED BY ROBERT HAYWARD,

WEAVER STREET, STAMPS.

1822.

INDICATIONS,

&c.

§ I. *Facts suspected.* Subjects of Enquiry for the House of Commons.*

RESPECTING Lord Eldon, certain suspicions have arisen. The object of these pages is—to cause enquiry to be made, if possible, by the competent authority, whether there be any ground, and if yes, what, for these suspicions.

In general terms they may be thus expressed :—

1. That, finding the practice of the Court of Chancery replete with fraud and extortion, Lord Eldon, on or soon after his coming into office as Chancellor, formed and began to execute a plan for the screwing it up, for his own benefit, to the highest possible pitch ; to wit, by assuming and exercising a power of taxation, and for that purpose setting his own authority above that of Parliament; which plan he has all along steadily pursued ; and, if not, the present *Judges' Salary-raising Measure*, 69, anno 1822, a late Act, to wit the 3rd Geo. IV. cap. 6, is the consummation of it.

* Objection. Among these so styled *facts* are matters of *law*.
Answer. The existence or supposed existence of a matter of law, is matter also of fact.

2. That, it being necessary, that, for this purpose, the other Westminster Hall Chiefs should be let into a participation of such sinister profit—to wit, as well for the better assurance of their support, as because the power of appointing to those offices being virtually in his hands, whatever is profit to them is so to him—the means employed by him tended to that effect also, and have been followed by it.

In relation to the whole scheme, conception may perhaps receive help, from a glance, in this place, at the titles of the ensuing sections. Here they are :

§ 2. Under Lord Eldon, Equity an instrument of fraud and extortion—samples of it.

§ 3. Anno 1807. Order by Chancellor and Master of the Rolls, augmenting the fees of offices in the gift of one of them.

§ 4. Profit to subordinates was profit to principals : so, in course, to successors.

§ 5. Contrary to law was this order.

§ 6. By it, increase and sanction were given to extortion.

§ 7. So, to corruption.

§ 8. How Lord Eldon pronounced the exaction contrary to law, all the while continuing it.

§ 9. How the Chancellor had laid the ground for the more effectual corruption of himself and the other chiefs (anno 1801).

§ 10. How the project was stopped by a Solicitor, till set a-going again, as per § 3.

§ 11. How the other Chiefs were corrupted accordingly.

§ 12. How the illegality got wind, and how Felix trembled.

§ 13. How the Chancellor went to Parliament, and got the corruption established.

§ 14. How the Head of the Law, seeing *swindling* at work, stepped in and took his profit out of it.

§ 15. How King George's Judges improved upon the precedent set by King Charles's, in the case of *ship-money*.

§ 16. How to be consistent, and complete the application of the self-paying principle.

§ 17. How Lord Eldon planned and established, by Act of Parliament, a Joint Stock Company, composed of Westminster Hall Chiefs, and other dishonest men of all classes.

§ 18. How the King's Chancellor exercised a dispensing power.

§ 19. Character evidence.

§ II. *Under Lord Eldon, Equity an instrument of Fraud and Extortion. Samples:—*

A single sample will serve to show in what state Lord Eldon found this branch of practice, and that it stood not in much need of improvement at his hands : by a few more which follow, a faint yet for this purpose a sufficient idea, will be given of the improvement it has actually received under his care.

By the command of a father, I entered into the profession, and, in the year 1772 or thereabouts, was called to the bar. Not long after, having drawn a bill in equity, I had to defend it against exceptions before a Master in Chancery. "We shall have to attend on such a day," (said the Solicitor to me, naming a day a week or more distant,) "warrants for our attendance will be taken out for two intervening days, but it is not customary to attend before the third." What I learnt afterwards was—that though no attendance more than *one* was ever bestowed, *three* were on every occasion regularly charged for; for each of the two falsely pretended at-

tendances, the client being, by the Solicitor, charged with a fee for himself, as also with a fee of 6s. 8d. paid by him to the Master: the consequence was—that, for every actual attendance, the Master, instead of 6s. 8d., received 1l., and that, even if inclined, no Solicitor durst omit taking out the three warrants instead of one, for fear of the not-to-be-hazarded displeasure, of that subordinate Judge and his superiors. True it is, the Solicitor is not under any *obligation* thus to charge his client for work not done. He is however sure of *indemnity* in doing so: it is accordingly done of course. Thus exquisitely cemented is the union of sinister interests.* So far as regards attendances of the functionaries here mentioned, thus is the expense tripled: so, for the sake of the profit on the expense, the delay likewise. And I have been assured by professional men now in practice, that on no occasion, for no purpose, is any Master's attendance ever obtained without taking out three warrants at the least.

So much for the state of the practice before Lord Eldon's first Chancellorship: now for the state of it under his Lordship's auspices.

Within the course of this current year, disclosures have been made in various pamphlets. One of the most instructive, is the one intitled “A Letter to Samuel Compton Cox, Esq. one of the Masters

* Of the result of the above-mentioned experience, intimation may be seen in the *Théorie des Peines et des Recom-penses*, first published in French, anno 1811, or in B. 1, ch. 8, of the *Rationale of Reward*, just published, being the English of what regards *Reward* in French.

These things, and others of the same complexion, in such immense abundance, determined me to quit the profession; and, as soon as I could obtain my father's permission, I did so: I found it more to my taste to endeavour, as I have been doing ever since, to put an end to them, than to profit by them.

of the Court of Chancery, respecting the practice of that Court, with suggestions for its alteration. By a Barrister. London, 1824." Extracted from it are the following alleged samples: samples of the improvements made in the arts and sciences of fraud and extortion, by Masters in Chancery and others, under the Noble and Learned Lord's so assiduously fostering and protecting care.

I. *In regard to attendances on and by Masters, money exacted by them as above, when no such services are performed.*

P. 12. "The issuing of warrants is another subject which requires consideration. These are issued frequently upon states of facts, abstracts of titles, charges and discharges, &c. *not according to the time consumed* in going through the business before the Master, *or his Clerk,** but according to the *length of the statement.* The Clerk takes it for granted, that the investigation of a state of facts of a given length may be *expected* to occupy a given number of hours. The Solicitor, therefore, in drawing such his bill of costs, *after the statement has been gone through,* leaves a blank for the number of warrants "to proceed on the state of facts." *The Master's Clerk fills up the blank,* by inserting such a number, as *might, if* there had been much contention between the different parties, have by *possibility* been issued. Thus, where *two or three* are all that, in fact, have been taken out, *ten or*

* Of the business charged for, as if done by the Master, the greater part, Masters taken together, is done by the Master's clerk. The officers styled Six-Clerks have long ascended into the Epicurean heaven, the region of sinecures: the Masters are jogging on in the road to it. I have known instances of Masterships given to common lawyers, to whom the practice of the court was as completely unknown as anything could be.

fifteen are charged and allowed. The Solicitor produces those he has *actually received* in the course of the business, and *the Clerk* delivers to him so many *more* as are necessary to make up the requisite number.*”

P. 12. “A similar process takes place with respect to *the Report*. If the charge for the warrants alone were all that was to be complained of, the mischief would not be so great. But *you are aware, Sir,*† that an attendance on each of these warrants is charged for and allowed, and that frequently by several different solicitors,‡ so that the expense to the suitors is grievously increased.”

II. *Of the sinister profit made by the Solicitor, the greater part has for its cause the rapacity of the Master, supported by the Chancellor.*

P. 9. “Copies of proceedings of all sorts, of states of facts, of affidavits, of reports, of every paper in short which is brought into the office, are multiplied without the least necessity; and, in many instances, are *charged for, though never made*. For instance, in an amicable suit, where the only object is to obtain the opinion of the Court on some

* Thus exacting, for the Master, payment for that same number of attendances not bestowed; and as to solicitors, not only allowing but forcing them, on both sides—and there may be any number on each side—to receive payment, each of them, for the same number of attendances on his part.

† Thus saith the nameless Barrister to the Master, who has taken care all this while to know no more of the matter than Lord Eldon does. He is one of the thirteen Commissioners, commissioned by Lord Eldon, to enquire, along with Lord Eldon into the conduct of Lord Eldon.

‡ Though no cause has more than two sides—the plaintiff’s and the defendant’s—yet on each side there may be as many different Solicitors as there are different parties, and to the number of them there is no limit.

doubtful point, and the Master's report is previously necessary to ascertain the facts of the case clearly, each solicitor concerned is required, in most instances, to take, or at least to pay for, a copy of the state of facts carried in, of the affidavits in support of it, and of the draft of the report ; and in the event of his not taking these copies, he is not allowed to charge for any of his attendances in the Master's office."

P. 10. "The draft of the report is kept with the other papers relating to the suit, in the Master's office ; and to such a length is the system of charging for copies carried, that in amicable suits it not unfrequently happens, I believe, that no copy whatever of the draft report is made, but the Solicitor merely looks over the original draft in the Master's office. Yet, even in this case, two or more copies will be charged for * as made for the plaintiff and defendants." pp. 10, 11.

III. *How, by breach of duty as to attendance on the part of Masters and their clerks, delay and expense are manufactured by them, and profit out of it, over and above what is exacted by them on mendacious grounds, as above.*

P. 15.—"The Masters seldom, I believe, make their appearance in Southampton-buildings before eleven, and are mostly to be seen on their way home by three o'clock at the latest."

P. 16.—"Another evil, is that of issuing warrants to different parties to attend at the same hour."

"With some exceptions (says another pamphlet, with a high and responsible name to it, page 32.) I find a general understanding prevails, that the *earliest* appointment for a Master must be

* By, and for the profit of, the Master.

eleven, and the *latest* at *two o'clock*." Consequence—warrant sent for, frequent answer—"Master full for a week : " page 31. "Court sits from ten to four." So far the authority. Court, sitting as yet in public, cannot convert *itself* into a sinecurist : this accommodation it cannot afford to any but its feudatories, who, so long as they act, the shorter the proportion of time in a day they sit on each cause, have the greater number of attendances to be paid for.

The attendance, styled *the Master's*, is, after all, in many instances, only the *Clerk's* : so that it may be matter of calculation at the end of what period, under the cherishing care of Lord Eldon, all Masterships may have ripened into sinecures, and thus completed the course completed already by the Six-Clerkships. Per pamphlet, intitled *Rewards, &c.* p. 49, of which presently. Average emolument of one of the Master's *Clerks*, in 1822, 1823, and 1824, 2,300*l.* a year.

IV. *Strict community of sinister interest between the judicial and professional lawyers ; the judicial, principals, the professional, forced accomplices.*

P. 13.—" Their bills will be less rigidly examined. Under these circumstances, it is not the interest of a Solicitor to quarrel with the Master's clerk." * Both are alike gainers by the existing system.—p. 14. " In cases where the costs come out of a fund in court, *much less strictness* is likely

* " Since writing the above, I have been informed that in *one office*† the clerk is not allowed to receive gratuities, but is paid a stipulated salary ; and I understand that the business of that office is conducted as well, as expeditiously, and as satisfactorily in all respects as in other offices. It might seem invidious to say more so."—*Barrister.*

† Worth knowing it surely would be by the House of Commons, what that *one office* is.—J. B.

to prevail. If the plaintiff's Solicitor be allowed for attendances on more warrants than are actually taken out during the progress of the business, a similar allowance must be made to the defendant's Solicitor. But even if it were both the interest and the inclination of the Solicitor to amend this practice, it is not in his power so to do. He might indeed amend it so far as his own charges, go, but no farther. Over those of the Master's clerks, he has no controul; and he is moreover at the mercy of the clerk. If he quarrels with the clerk, he must expect to be thwarted and delayed in every suit which comes into that office, and to have his bills rigorously taxed. The Master's clerk, with the assistance of a clerk in court, taxes the Solicitor's bill; but there is nobody to tax the Master's bill."—p. 14.

V. *Corruption and extortion, by bribes, given to and received by Master's clerks, in addition to the sinister profit, carried as above to the account of the Master.*

P. 13.—“The gratuities at present allowed to the Master's clerks ought to be done away with altogether. . . . Solicitors, who are in the habit of giving large gratuities to the clerks, will at any rate be looked upon favourably. Their business will be readily attended to, and oftentimes to the delay of others, who, in strictness, are entitled to priority.”

VI. *Anno 1814, Lord Eldon's eyes, forced to open themselves to fraud and extortion in one portentously scandalous instance, kept shut in all other instances before and since.*

P. 11.—“With regard to copies of particulars of sale, where an estate is sold in the Master's office, a material alteration has of late years been made. To such a height had these charges

amounted, that in one instance (*Casamajor v. Strode*) 700*l.* were claimed for *compensation-money*, in lieu of *written* copies of *particulars of sale*. In consequence of that charge, the *general order of 24th March 1814*, was made, by which the Master is allowed sixpence a side for so many printed copies of the particulars as there are *actual* bidders, *and no more*. There seems no good reason for making even this allowance. It would be fair enough, *if the Masters are to continue to be paid by fees*, to allow the expense of copying the particular for the printer, and even a fee, if thought necessary, for settling it; but beyond that, as there is no actual trouble, there should be no charge on the suitor.”—p. 12.

Of the particulars above given, a general confirmation may be deduced from the contents of the (I now see) *named*, but not promiscuously published pamphlet, above alluded to—Mr Vizard’s.

What is above is a small sample of that which is said to have place. Of what follows in sections 4, 8, and 9, the design is—to show how that which has place, came, and comes to have place.

§ III. *Anno 1807. Order by Chancellor and Master of the Rolls, augmenting the fees of offices in the gift of one of them.*

It consists of a printed pamphlet of 25 pages, bearing in the title page the words following :

“ List of Costs in Chancery, regarding Solicitors, and also Clerks in Court, as increased by orders of Court, dated 26th February last; issued under the joint signatures of the Right Hon. the Lord Chancellor, and Master of the Rolls : being exact copies of those orders. The same having been collated with the original Lists of the Court.

§ 4. *Profit to Subordinates—ditto to Superiors.* 13

“London: printed for Heraud and Co., Law Stationers, Carey street, corner of Bell yard, by J. and W. Smith, King street, Seven Dials, 1807.”

In the preamble to that part which regards the “Clerks in Court Fees,” the order speaks of itself as establishing “a schedule of—increased fees.” Thereupon follows the schedule, and the number of the fees is forty-three.

Anno 1814. In pursuance of certain orders of the House of Commons, returns were made, amongst other Chancery offices, from that of the *Six-Clerks*, and another from that of the *Sworn and Waiting Clerks*. These are comprised in pages 5, 6, 7, 8, of a paper entitled “Fees in Courts of Justice.” Dates of order for printing, 13th May, and 11th July 1814. Nos. 234 and 250.

In the return relative to the Sworn Clerks, are reprinted the contents of the pamphlet above mentioned.

§ IV. *Profit to Subordinates was Profit to Superiors; so, in course, to Successors.*

Here begins the proof of the fact—that a twopenny loaf costs twopence: in Honourable and Right Honourable House, the proof will be insufficient; in any other, unless it were a Right Honourable one, it would be superfluous: for information, yes: but, for reminiscence, it may have its use.

1. Wherever an office has any money value, so has the patronage of it. By the patronage, understand the power of determining the individuals by whom, together, or one after another, it shall be possessed;—the whole power or any share in it.

Take any office singly, compared with the value

of the possession, that of the patronage may be less or greater. It is most commonly less ; but it may be many times greater. Patron (say) a father near the grave ; son, in early youth : value of the office if occupied by the father, not one year's purchase ; if by the son, a dozen years or more.

Present income of a Six-Clerkship, about 1000*l.* a year : so stated to me by gentlemen belonging to the office. It is regarded as a sinecure ; patron, the Master of the Rolls. One of these Judges was Sir Thomas Sewell ; children, numerous. No further provision for this one, without injustice to others. Suppose it sold, what would it have been worth to him ? Not a fifth of what it was by being given.—2,000*l.* the price usually got by patron. So at least said, by gentlemen belonging to the office. This for the information of Mr Robinson : the Mr Robinson who, as far as I understand hitherto, to secure purity interdicts sale, leaving gift as he found it.

Say *patron* and *grandpatron*, as you say *son* and *grandson*. Grand patronage is not so valuable as patronage. True : nor yet valueless. In the King's Bench, is an office called the Clerkship of the Rules. Annual value, as per Finance Reports, 1797-8, 2,767*l.* Nominal joint patrons in those days, Earl of Stormont and Mr Way ; grand patron, Earl of Mansfield, Lord Chief Justice. Trustee for the Lord Chief Justice, said Earl of Stormont and Mr Way : price paid, 7,000*l.* : circumstances led me to the knowledge of it. But for grandpatron's cowardice (that cowardice which is matter of history) more might have been got for it. That or thereabouts was got for it a second time.

Would you know the money value of an office, exclusive of the emolument in possession ? to

the aggregate value of the patronage belonging to it, add that of the grand patronage. Nor is that of great-grand patronage nothing. Wherever you can see a grandpatron other than the king, seeing the king, you see a great-grand patron.

A Mastership was a fortune to a daughter of Lord Erskine. Had he held the seals long enough, a Six-Clerkship might have been a provision for a son, supposing the matter settled with Sir William Grant, who had no issue.

If either patronage, grand patronage, or great-grand patronage of the office are valueless, so is the possession of it.

In case of abuse, profit to individuals is one thing; mischief to the public, another. Profit from fee-gathering offices may be made either by sale or by gift. When by sale, small is the mischief in comparison of what it is when by gift. But this belongs to another head.

Neither by the Chancellor, nor by the Master of the Rolls (it may be said) are nominated any of the officers to whose fees the Order gives increase. True: nor by this is the additional value, given by it to the patronage, lessened. Along with the values of the Sworn-clerkship and the Waiting-clerkship, rises that of the Six-clerkship. *Ten-pence* per folio is paid to Sworn and Waiting Clerks; *ten-pence* per *ninety words*, called a *folio*, for copies taken by them: out of each such *ten-pence*, the Six Clerks, for doing nothing, receive four-pence. This is all they receive: an *all* which to some eyes, may not appear much too little.

The measure was one of experiment: direct object, that project of plunderage, which will be seen continued and extended by the hands of Lord Eldon in 1807, and sanctioned by Parliament in

1822 : collateral, or subsidiary object on his part, giving additional strength to the dominion of Judge-made over Parliament-made law. Full butt did this order run against a special statute, made for remedy against this very abuse : not to speak of the general principle laid down, and thus vainly endeavoured to be established, by the Petition of Rights. But as to this, see next section.

Of the price the public was made to pay for this sinister profit, not more than half has, as yet, been brought to view. The other half went to stop mouths. Waste, all of it, as well as productive of correspondent delay, is what is exacted for all three sorts of clerks. Thus felt, and even yet say, the solicitors. The plunderable fund is composed of the aggregate property of all those who can afford to buy a chance, for the article sold under the name of Equity. The greater the quantity taken by the one set, the less is left for the other—see an experience of this shewn in § 13. Preceded accordingly by the bonuses given to these more immediate cointeresses of the Chancellor and his feudatory, was a like bonus given to the fraternity of solicitors.

§ V. *Contrary to Law was the Order.*

Not to speak of clauses of *common*, that is to say, *imaginary law*, called *principles*, borrowed or made by each disputant for the purpose of the dispute—full butt does the order run against indisputable *Acts of Parliament* ;—acts of general application applying to taxation in any mode without consent of Parliament ;—acts of particular application, applying to taxation in this particular mode :

1. First comes the *generally*-applying act, 25 Ed. 1. c. 7, anno 1297. "We have granted for us and our heirs, as well to Archbishops....as to Earls....and to all the commonalty of the land, that for no business from henceforth we shall take such manner of aids, tasks, nor aprises, but by the common assent of the realm."

2. Next comes 34 Ed. I. stat. 4, c. 1. anno 1306. "No Tallage or Aid shall be taken or levied by us, or our heirs, in our realm, without the good-will and assent of Archbishops, Bishops, Lords, Barons, Knights, Burgesses, and other freemen of the land."

3. Now comes the *specially*-applying act, 20 Ed. III. c. 1. anno 1346. "First, we have commanded" (says the statute) "all our justices to be sworn, that they shall from henceforth do equal law and execution of right to all our subjects, rich and poor. And we have ordained and caused our said Justices to be sworn, that they shall not from henceforth, as long as they shall be in the office of justice, take fee nor robe of any man but of ourself, and that they shall take no gift nor reward, by themselves nor by others privily or apertly, of any man that hath to do before them by any way, *except meat and drink, and that of small value.*"*

4. Lastly comes the all-comprehensively apply-

* The exception—*the meat and drink of small value* (need it be said?) speaks the simplicity of the times: roads bad, inns scantily scattered, judges, in their progresses in the suite of the monarch, starved, if not kept alive by the hospitality of some one or other, who, in some way or other, "*had to do before them.*"

A few words to obviate cavil.

Objection. Immediately before this last-mentioned clause in the statute, runs a sort of special preamble, in these words,— "to the intent that our justices should do every right to all people, in the manner aforesaid, without more favour showing to one than to another." Well then: fee, the same to all, shews no such favour.

ing clause in the Act commonly called the Petition of Rights, 3. ch. 1, c. 1. § 20, "That no man hereafter be compelled to make, or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament."

Turn back now to the Judge-made law, and the enactors of it. Could they have had any doubt as to the illegality of what they were doing? Not unless these sages of the law had forgot the A, B, C of it.

But a pretence is made,—and what is it? "Whereas the same" (speaking of the fees of the offices in question) "have been at different times regulated by the orders of this Court, as occasion required."

The "different times,"—what are they? They are the *one* time, at which, by a like joint order, anno 1743, 17 Geo. II. Lord Chancellor Hardwicke, his Master of the Rolls, Fontescue, "did order and direct that the Sworn-clerks and Waiting-clerks, do not demand, or take any greater fees or reward for the business done or to be done by them in the Six-clerk's office, than the fees and rewards following:" whereupon comes a list of them.*

Answer, 1. Preamble limits not enacting part:—a rule too generally recognized to need reference; disallow it, the whole mass of statute-law is shaken to pieces.

2. Fee the same to all, *does* show such favour in the extreme. A. has less than 10*l.* a-year to live on: B, more than 100,000*l.* a-year: on A. a 5*s.* fee is more than ten thousand times as heavy as on B. Of the B.'s, there are several: of the A.'s, several millions. By the aggregate of the fees exacted on the plaintiff's side, all who cannot afford to pay it, are placed in a state of out-lawry: in a still worse state those, who, having paid a certain part of the way, can pay no further. Ditto on defendant's side, sells to every man, who, in the character of plaintiff, is able and willing to buy it, an unlimited power of plundering and oppressing every man, who cannot spend as much in law as he can.

* House of Commons paper, 1814, intituled "Fees in Courts of Justice," p. 5.—Returns to orders of the Honourable House

In any of the many reigns in which Parliament never sat but to give money, and in which, could Kings have kept within bounds, there would have been an end of Parliaments,—as the value of money sunk, augmentation of subordinate's fees by superiors might have had something of an excuse. But Lord Hardwicke—while he was scheming this order, he was receiving in the House of Lords, money-bills in profusion, brought up by the House of Commons. This tax of his—would the Commons have given, or would they have refused their sanction to it? Under either supposition, this tax of his imposition was without excuse.

Well, and suppose that Chancellor and his Master of the Rolls *had* done what Lord Chancellor Erskine and his Mentor did,—“*order and direct that the said schedule of fees be adopted.*”? (p. 18.) But they did no such thing: they were too wary: the time was not ripe for it. George the Second had a Pretender to keep him in check: George the Third had none. True it is, that by their adroitly-worded *prohibition*, all the effect of *allowance* was produced. But, had anything been said about the Order, *there* were the *terms* of it:—all that these models of incorruption had in view by it was *repression*: *allowance* was what it was converted into, by underlings acting out of sight of

of Commons of 31st March and 2nd of May, 1814: for “a return of any increase of rate of the fees, demanded and received in the several superior *Courts of Justice*, civil or ecclesiastical, in the *United Kingdom*, by the Judges and Officers of such Courts, during twenty years, on the several proceedings in the same, together with a statement of the authority under which such increase has taken place.”

1. England, 2. Scotland, 3. Ireland, 234 and 250.—Ordered by the House of Commons to be printed, 13th May and 11th July, 1814.

superiors. Thus, on a ground of rapacity, was laid an appropriate varnish:—a coating of severe and self-denying justice.

The caricature-shops used to exhibit divers progresses: Progress of a *Scotchman*, Progress of a *Parson*, and some others. In these pages may be seen that of a *fee-gathering Judge*. Seen already has been the first stage of it.

If Lord Erskine, or rather the unfledged Equity-man's Mentor, had any doubts of the illegality of what they were doing, no such doubts had Lord Eldon: for now comes another motion in the gymnastics of lawyer-craft—the last stage, or thereabouts, which for the moment we must anticipate.

The last stage in the progress, is that which is exhibited in, and by that which will be seen to be *his Act*—the Act of 1822—3 Geo. IV. c. 69, as per § 13, of these pages: the assumption per force recognized to be *illegal*; because, as will also be seen, the Court of King's Bench had just been forced to declare as much: whereupon came the necessity of going, after all, to Parliament: *illegality* recognized, but a different word, the word *effectually*-employed, that from all who were not in the secret, the evil consciousness might be kept hid. “Whereas” (says the preamble) “it is *expedient* that some provision should be made for the permanent regulations and establishment of the fees of the officers, clerks, and ministers of justice of the several Courts of Chancery, King's Bench, Common Pleas, Exchequer, and Exchequer Chamber, at Westminster, and of the clerks and other officers of the Judges of the same Courts; but the same cannot be *effectually* done but by the authority of Parliament”.... thereupon, comes the first enactment, enabling

Judges to deny and sell justice for their own profit, and giving legality and permanence (and, by the blessing of God!—Mr Justice Bailey and Mr Justice Park! · eternity) to the things of which we have been seeing samples.

As to the *effectuality* of the thing, what had been done in this way without Parliament and against Parliament, had been but *too effectually* done; and, but for the so lately disclosed *illegality*, might and would have continued to be done, as long as matchless Constitution held together. At the same time, what is insinuated is—that, although what *had* thus been done without Parliament, *had* hitherto and all along been done *legally*, yet, for want of some *machinery*, which could not be supplied but by Parliament, it could not *in future* be so effectually done, as it would be with the help of such machinery, which, accordingly, the Act was made to supply. Not an atom of any such subsidiary matter is there in the Act. All that this Act of Lord Eldon's does, is to authorize and require himself, and the other Judges in question—the Westminster Hall Chiefs—to do as it had found them doing: taxing the injured—taxing them on pain of outlawry—taxing the people, and putting the money into their own pockets. In § 13, the reader will see whether what is here said of the absence of all machinery is not strictly true. Nothing whatever, besides what is here mentioned, does the Act so much as aim at.

§ VI. *By it, Increase and Sanction were given to Extortion.*

The illegality of the order supposed, taking money by colour of it, is *extortion*;—either *that* is, or nothing is.

Ask Mr. Serjeant Hawkins else. As good common law as Mr. Anybody else, or even my Lord Anybody else makes, is that made by Mr. Serjeant Hawkins; so says everybody. Look to ditto's Pleas of the Crown, vol. ii., b. i., ch. 68, § 1. In the margin especially, if you take Leach's edition, or any subsequent one, you will see a rich embroidery of references: if the ground does not suit you, go to the embroidery, and hard indeed is your fortune, if you do not find something or other that will suit you better.

—“It is said” (says he) “that extortion, in a *large* sense, signifies any *oppression* under colour of right; but that in a *strict* sense, it signifies the taking of money by any officer, by colour of his office, either where none at all is due, or not so much is due, or where it is not yet due.” So much for the learned manufacturer. For the present purpose, the *strict* sense, you will see, is quite sufficient: as for the *large* sense, this is the sense you must take the word in, if what you want is nonsense. If you do, go on with the book, and there you will find enough of it; and that too without need of hunting on through the references; for if, with the law-making Serjeant, you want to enlarge *extortion* into *oppression*, you must strike out of *extortion* the first syllable, and, with it, half the sense of the word, which done, you will have *tortion*—which will give you, if not the exact synonyme of *oppression*, something very little wide of it; and here, by the bye, you have a sample of the sort of stuff on which hang life and death under *Common Law*.

§ VII. *So, to Corruption.*

Corruption? No: no such head has the learned aforesaid manufacturer and wholesale dealer in crown-law. No matter: he has *bribery*. Rambling over that field, he picks up *corruption*, which he takes for the same thing. Had he lived in present times, well would he have known the difference. Bribery is what no Judge practises: would you know what prevents him, see “Observations on the Magistrates’ Salary-raising Bill:” Corruption—self-corruption—is what, as you may see there and here, every Westminster Hall Chief Judge has been in use to practice; and is now, by Act of Parliament, anno 1822, 3 Geo. IV. c. 69, allowed to practice.

For bribery too, Hawkins has his *strict* sense and his *large* sense. It is in its *large* sense that he fancies it the same thing with *corruption*. Neither to bribery, however, nor to corruption, does this law of his apply itself, in any other case than that in which he who commits it has something or other to do with the administration of justice.* But, as before, this is all that is wanted here.

“Bribery” (says he) “in a *strict* sense, is taken for a great *misprision* of one in a judicial place, taking any valuable thing whatsoever, *except meat and drink of small value*,† of any one

* By Lord Chief Justice Raymond, or by somebody for him, *Bench* law was afterwards made to explain and amend this *Inn of Court* law of the learned Serjeant, in addition to judicial law: corruption election bribery was thereby made bribery likewise. See the embroidery as above.

† To Serjeant Hawkins (we see) to Serjeant Hawkins, though he never was a Judge—the Statute of Edward the

who has to do before him any way, for doing his office, or by colour of his office, but of the King only.

“ § 2. But bribery in a *large* sense” (continues he) “ is sometimes taken for the receiving or offering of any undue reward, by or to any person whatsoever, whose ordinary profession or business relates to the administration of public justice, in order to incline him to do a thing against the *known rules of honesty and integrity*; for *the law abhors* [inuendo the common law, that is to say, it makes the Judges abhor] *any the least tendency to corruption in those who are any way concerned in its administration.*”

Here the learned Serjeant waxes stronger and stronger in sentimentality, as he ascends into the heaven of hypocrisy, where he remains during the whole of that and the next long section.—“ Abhor corruption?” Oh yes, even as a dog does carrion.

Be this as it may, note with how hot a burning iron he stamps bribery and corruption on the foreheads of such a host of sages :—of Lord Erskine (oh fie! isn't he dead?) Sir William Grant (oh fie! was he not an able Judge?) and Lord Eldon, the Lord of Lords, with his *cæteras* the inferior Chiefs.

§ VIII. *How Lord Eldon pronounced the Exaction contrary to Law—all the while continuing it.*

The following is the tenor of a note obtained from an eminent barrister present, who had particular means and motives for being correct as to the

Third was not unknown, though so perfectly either unknown or contemned by the host of the under-mentioned Judges.

facts, and who does not, to this moment, know the use intended to be made of it. In the Court of Exchequer, February 5, 1820.

“ *DONNISON v. CURRIE.*

“ A question was made upon a petition, whether certain allowances, made to a solicitor on the taxation of his bill of costs, were regular, which they would have been, if the Court of Exchequer adopted in its practice the additional allowances made by Lord Erskine’s order, otherwise not.

“ It was objected that those additional allowances were not adopted by the Exchequer, inasmuch as Lord Erskine’s order was not legal, and that Lord Eldon had intimated an opinion that he did not consider it as legal.

“ The Chief Baron (Richards) admitted that he understood *Lord Eldon had said that he did not consider Lord Erskine’s order as being legal, but that it had been now so long acted upon, that the Court must be considered as having sanctioned it, and that he (Richards) should follow what had been said by Lord Eldon.*” Thus far the Report.

As to its being for his own benefit—see § 4.

Thirteen years, and no more, having sufficed thus to set Bench above Parliament, anno 1820, quære what is the *smallest* length of time that will have become sufficient before the reign of John the Second is at an end?

Objector.—Idle fears! how inconsiderable in all this time, the utmost of what the people can have suffered from the exercise of this power!

Answer.—True, the plunderage has its limit. Thank for it, however—not Learned moderation, but a very different circumstance, which will be ex-

plained in § 13, when the Act by which the last hand put to the plan comes to be considered : moreover, what makes fees so stickled for in preference to salary, is—that as plunderable matter increases, so will plunderage.

As to its being for his own profit that Lord Eldon thus continued the exaction, see § 4.

Bravo, Lord Chancellor Eldon ! bravo, Lord Chief Baron Richards ! “ *So long !* ” that is to say, just thirteen years : assuming what of course is true—that of the course of illegality begun under Lord Erskine, and pursued under Lord Eldon, the continuation commenced with his re-accession. Years, thirteen ! Here then is *on* length of time which suffices to entitle the Westminster Chiefs, all or any one of them, to set aside any Act or Acts of Parliaments they please : and in particular any Act of Parliament, the declared object of which is to prevent them from plundering, without stint, all people, who can and will buy of them, what they call *justice*, and from denying it to all who cannot.

But Bar ? . . . what said Bar to this ? Oh ; Exchequer is a snug Court : small the quantity of Bar that is ever there. But, were there ever so much, Bench cannot raise itself above Parliament but it raises Bar along with it. Between Bench and Bar, even without partnership in money or power, sympathy would of itself suffice to make community of sinister interest. The same fungus, which, when green, is made into Bar, is it not, when dry, made into Bench ?

No want of Bar was there, anno 1801, when Lord Eldon, as per next section, laid the ground for the decision, thus pronounced anno 1820 ; as little, when, the next year (1821) as per § 12,

ground and all were laid low by the shock of an earthquake. Matchless Constitution (it will be seen) may be turned topsy-turvy, and *lay-gents* know nothing of the matter: Bar looking on, and laughing in its sleeve.

Note here the felicity of Lord Eldon: the profit reaped by him from his *Hegira* of a few months. We shall soon see, how, from one of the most unexpectable of all incidents, the grand design of the Grand Master of Delay experienced a delay of six years: a delay, which, like so many of his own making, might never have found an end, but for the short-lived apparent triumph and un-quiet reign of the pretenders to the throne. When, upon their expulsion, the legitimates resumed their due omnipotence, it seemed to all who were in the secrets of providence—and neither Mr Justice Bailey nor Mr Justice Park, nor any other chaplain of Lord Eldon's, could entertain a doubt of it—that it was only to give safety and success to this grand design of his, that the momentary ascendancy of the intruders had been permitted. The Chancellor, by whom the first visible step in the track of execution was taken, being a Whig,—not only was a precedent set, and ground thus made for the accommodation of Lord Eldon, but a precedent which the Whigs, as such, stood effectually *estopped* from controverting. Poor Lord Erskine—all that he had had time to do, was to prepare the treat: to prepare it for his more fortunate predecessor and successor. Scarce was the banquet on the table, when up rose from his nap the “giant refreshed,” and swept into his wallet, this, in addition to all the other sweets of office. As to poor Lord Erskine, over and above his paltry 4000*l.* a-year, nothing was left him, but to sing with Virgil—*Sic vos non nobis mellificatis apes.*

§ IX. *How the Chancellor had laid the ground for the more effectual corruption of himself and the other Chiefs.*

For this ground we must, from 1821, go as far back as the year 1801. In the explanation here given of the charges, it seemed necessary to make this departure from the order of time ; for, till some conception of the design, and of a certain progress made in the execution of it, had been conveyed, the nature of the ground, so early, and so long ago laid for it, could not so clearly have been understood.

In nonsense (it will be seen) was this ground laid : plain sense might have been too hazardous. The document in which the design may be seen revealed, is another reported case, and (what is better) one already in print : *Ex-parte Leicester, Vesey Junior's Equity Reports*, VI. 429. Buried in huge grim-griber folios, secrets may be talked in print, and, for any length of time, kept. The language nonsense, the design may be not the less ascertainable and undeniable. Nonsense more egregious was seldom talked, than, on certain occasions, by Oliver Cromwell. Whatever it was to the audience *then*, to us the design is no secret *now*.

Here it follows—that is to say, Lord Eldon's.

Vesey Junior, vi. 429 to 434. Date of the report, 1801, Aug. 8. Date of the volume, 1803, p. 432.—LORD CHANCELLOR (p. 423)—“ A practice having prevailed, for a series of years, *contrary to the terms of an Order of the Court*, and sometimes *contrary to an Act of Parliament*, it is more consistent to suppose some ground appeared to former Judges, upon which *it* might be rendered *consistent with the practice*: and therefore, that it would be better to correct *it* in future, *not in that*

particular instance. Upon the question, whether that order is to be altered, or to be acted upon according to its terms, which are at variance with the practice, I am not now *prepared* to deliver a decisive opinion: for this practice having been ever since permitted to grow up as expository of the order, if my opinion was different from what it is as to the policy of the order according to its terms, I must collect, that there is in that practice testimony given, that, according to the terms, it would be an inconvenient order."

No abstract this—no paraphrase—*Verba ipsissima*. Eldon this all over. None but himself can be his parallel.

Nothing which it could be of any use to insert is here omitted. Those who think they could find an interpretation more useful to Lord Eldon by wading through the five or six folio pages of his speech, let them take it in hand, and see what they can make of it. All they will be able to do, is to make darkness still more visible.

§ X. *How the Design was stopt short by a Solicitor, till set a-going again, as above.*

The deepest-laid designs are sometimes frustrated by the most unexpected accidents. From the hardihood of a man whose place was at his feet, we come now to see a design, so magnificent as this of the Chancellor's, experiencing the above-mentioned stoppage of six years.

Before me lies an unfinished work, printed but not published: title, "Observations on Fees in Courts of Justice:" date to the Preface, Southampton Buildings, 17th November, 1822. In that street is the residence of Mr Lowe, an eminent

solicitor. The work fell into my hands without his knowledge. He is guiltless of all communication with me. This said, I shall speak of him as the author without reserve. From that work I collect the following facts. Year and month, as above, may be found material.

1. Page 20. Early in Lord Eldon's first Chancellorship, to wit, anno 1801, his Lordship not having then been five months in office, Mr Lowe, in various forms, stated to his Lordship, in public as well as in private, that *in his Lordship's Court, "the corruption of office had become so great, that it was impossible for a solicitor to transact his business with propriety."* This in general terms: adding, at the same time what, in his view, were particular instances, and praying redress. Note, that to say *in his Lordship's court*, was as much as to say *under his Lordship's eye*:—after such information, at any rate, if not *before*.

2. Page 20. Argument thereupon by counsel: Mansfield, afterwards Chief Justice of the Common Pleas; Romilly, afterwards Solicitor-General. On the part of both, assurance of strong conviction that the charge was well founded; proportionable fears, and not dissembled, of the detriment that might ensue to the personal interest of their client from the resentment of the noble and learned judge.

3. Page 20, 21. Proof exhibited, of the reasonableness of these fears:—"Judge angry.".... Petitioner "bent beneath a torrent of power and personal abuse."

4. Page 21. Five years after, to wit, anno 1806—Lord Erskine then Chancellor—similar address to his Lordship; a brief again given to Romilly (at this time Solicitor-General) but with no better

fortune: further encouragement this rebuff—further encouragement, to wit, to Lord Eldon, when restored.

3. Page 21. In a note, reference to the above-mentioned case, *Ex-parte Leicester*, in Vesey, junior, with quotation of that portion of his Lordship's speech, which may be seen above in § 9. Hence a conjecture, that in that same case, Mr Lowe himself, in some way or other, had a special interest. From the reference so made to that case, and his Lordship's speech on the occasion of it, it should seem that the design of it, as above, was not a secret to Mr Lowe, and that his Lordship knew it was not.

Here ends the history of the *stoppage*.

6. Preface, pp. 6, 7. Upwards of eighteen months antecedently to the above-mentioned 17th November, 1822, say accordingly, on or about 17th May, 1821, page 6, on the occasion of two causes—Limbrey against Gurr, and Adams against Limbrey,—laid by Mr Lowe before the Attorney-General of that time, to wit, Sir Robert Gifford, matters showing “that the increasing amount of fees and costs was like *a leprosy rapidly spreading over the body of the law*.”

7. Preface, p. 3. Anno 1821, Trinity vacation—day not stated—to wit, sometime between July and November, mention made of his Lordship's courtesy, and of “a promise which his Lordship” (wrath having had twenty years to cool) “very condescendingly performed.” On this occasion, *hearing* before his Lordship, Master of the Rolls sitting with him: proof presumptive, not to say, conclusive, that, on this occasion, Lord Erskine's Order was under consideration; “Controverted” by Mr Lowe, a fee that had received the confirma-

tion of one of the sets of Commissioners, appointed by Lord Eldon for this and those other purposes that everybody knows of.

8. Preface, p. 5. Anno 1822, Easter term. Observations on the same subject, laid before the "Master in Ordinary," meaning doubtless one of the officers ordinarily styled *Masters in Chancery*, ten in number, exclusive of the Grand Master, the Master of the Rolls. With as good a chance of success might the gentleman have laid them before the Master of the Mint.

9. P. 5. Anno 1822, soon after the above "Information and Bill" filed against Mr Lowe, by Mr Attorney-General, and said to be fully answered. Solicitor to the Treasury, "Mr Maule." Answer put in by defendant, attachment for contempt in *not* answering. Quære, what means "*Information*" and "*Bill*?" Information in King's Bench? Bill in Chancery? But what *answer* can an information in King's Bench admit of?

10. P. 6. Shortly afterwards, Observations laid by him before the Lords of the Treasury, soliciting the investigation of the charge laid before the Attorney-General (Sir Robert Gifford) *eighteen months before*, on the occasion of the cases of Limbrey and Gurr, &c. as per No. 6.

Containing, as it does, pages between 5 and 6, this same preface is too long for insertion here. Carefully have the above allegations been culled from it. Of the passage contained in the body of the work, the matter is too interesting and instructive to be omitted: it will be found below.

Here then is *one* source, from which, had it ears for corruption, Honourable House might learn at any time, whether, from the above alleged corruption, Lord Eldon has not, during the whole of his

two Chancellors, been reaping profit, and whether it was possible so to have been doing without knowing it. By Lord Eldon's present set of nominees, evidence from Mr Lowe has, I hear, been elicited. Little, if any fruit, I hear, has been obtained from it. No great wonder any such barrenness. Anything unacceptable to their creator they could not be very desirous to receive: nor, perhaps, Mr Lowe, since the experience had of his Lordship's "courtesy," to give.

Astonished all this while at the stoppage—astonished no less than disappointed—must have been the goodly fellowship—the solicitors and clerks in court; importunate for six long years, but not less vain than importunate, had been their endeavours to obtain from Lord Eldon and his Sir William Grant—yea, even from Lord Eldon!—that boon, which with the same Sir William Grant for mediator and advocate,—at the end of six short months, we have seen them obtaining from Lord Erskine:—the said Sir William Grant being, as per § 4, in quality of patron, in partnership with the said clerks in court.*

* Since writing what is in the text, a slight correction has come to hand. Not the whole of John the Second's first reign, only the two last years of it experienced this disturbance. There was an old Sixty-Clerk named *Barker* who was a favourite at Court, and had his *entreés*. Cause of favour, this—after pining the exact number of years it cost to take Troy, Mr Scot, junior, had formed his determination to pine no longer, when providence sent an angel in the shape of Mr Barker, with the papers of a fat suit and a retaining fee. Him the fellowship constituted for this purpose Minister Plenipotentiary at the Court. Upon an average of the two years, every other day, it was computed, the Minister sought, and as regularly obtained an audience: answer, no less regular—"to-morrow." On this occasion, observation was made of a sort of competition in the arena of frugality between the potentate and his quondam protector, now sunk into his hum-

P. 19. “*An attempt in 1801 to reform practice.*”

Whilst Lord Thurlow held the great seal, tables of fees taken by officers in the Court of Chancery remained set up or affixed in their respective offices, and the most trifling gratuity was received with a watchful dubious eye, and cautious hand; but soon after the great seal was resigned by his lordship, those tables began to disappear, and (in 1822) have *never since been renewed*: gratuities then augmented, until they had no limits: and so early as the year 1801, when increased fees and costs had attained little of the strength and consistency *at which they have since arrived*, the Author of these observations stated to the Court “*that the corruption of office had become so great, that it was impossible for a solicitor to transact his business with propriety;*”* to justify such statement he, by petition, set forth certain payments made, which he insisted

ble friend. Without an extra stock of powder in his hair, never, on a mission of such importance, durst the plenipotentiary approach the presence; consequence, in that article alone, in the course of the two diplomatic years, such an increase of expense, as, though his Excellency was well stricken in years, exceeded, according to the most accurate computation, the aggregate expenditure in that same article, during the whole of his preceding life.

* “On hearing the case *ex-parte* Leicester, 6th Vez. jun. 429, where it was said, ‘that a practice having prevailed for a series of years, contrary to the terms of an order in Court, and sometimes contrary to an Act of Parliament, it is most convenient to suppose some ground appeared to former judges upon which it might be rendered consistent with the practice; and therefore that it would be better to correct practice in future, not in the particular instance.’ Whereas, the Author of these observations thinks that all practice which is contrary to an Act of Parliament, or to the terms of a standing order of Court, originates in corruption, and ought to be abolished in the particular instance complained of, or when, or however, a practice, at variance with law or order, is first made known to the Court.”

ought not to have been demanded or received, and prayed for redress; and he wrote a letter to one of the Lord Chancellor's secretaries, in which he stated an opinion, which (until the great charter, and the before-mentioned statutes of King Edward III and King Richard II are repealed,) he is disposed to maintain : and which, (though otherwise advised by his counsel) he then refused to retract.* The petition came on for hearing, and was supported by Mr Mansfield and Mr Romilly, with a spirit, and in a manner, peculiar to those advocates, and satisfactory to the feelings of the petitioner; and resisted by Mr Attorney-General (Sir Spencer Percival) and Mr Richards.

In vain did Mr Mansfield urge that "*gratuity was the mother of extortion*," and Mr Romilly state the intrepidity of his client. On that occasion, the Author of these observations, who never heard an *angry judge* give a just judgment, bent beneath a torrent of power and *personal abuse*.

On the coming in of a new administration, in the year 1806, the Author of these observations addressed a letter to Lord Erskine, and prepared to further hear his petition; but he was given to understand, by those who had once applauded his

* "Mr Mansfield sent for the Author of these observations to his chambers, and there told him, that the Lord Chancellor *had expressed displeasure* at something said in a letter to his secretary, and advised an apology to be made. In reply, the Author of these observations told his counsel, that he was prepared to maintain what he had written, and that he would not make an apology; and, having read to Mr Mansfield the draft of the letter, Mr Mansfield said that he recollected when Lord Thurlow was made Lord Chancellor, his Lordship had mentioned to him in conversation, that he had been told that he was entitled to receive some fees, which he doubted his right to take. And Mr Mansfield added, that such fees must have been those alluded to in the letter.

efforts,* that *a change of men did not change measures*; and since that time the irregular increase of fees and costs has introduced much confusion into the law.

§ XI. *How the other Chiefs were corrupted accordingly.*

As to what regards the Chief of the Exchequer Judicatory, an indication has been seen in § 6. As to what regards King's Bench and Common Pleas, the like may be seen in § 12. Invitation, —“Take and eat.” Seen it has been and will be, whether there was any backwardness as to acceptance.

Forget not that these men were, all of them, his creatures: breath of his nostrils; sheep of his pasture.

§ XII. *How the illegality got wind: and how Felix trembled.*

Of the spread of the contagion from Chancery to Exchequer, indications were given in § 8: mention was there made of its having completed the tour of Westminster Hall. What is there said is no more than general intimation: the manner *how*, comes now to be set forth.

Anno 1821, lived a broken Botanist and Ex-Nursery-man, named *Salisbury*. To distinguish him from a namesake of the gentleman-class, *Salisbury minor* is the name he goes by among the

* “The letter to Lord Erskine was delivered to the late Mr Lowton, who had a conversation with the Author of these observations thereon, and Sir Samuel Romilly sent for and had his brief to reconsider.”

Fancy. At the end of a series of vicissitudes, he had sunk into one of those sinks of misfortune, in which, to help pamper over-fed judges, debtors are squeezed by jailors, out of the substance that should go to creditors. As from Smithfield an over-driven ox into a china-shop—breaking loose one day from his tormentors, Salisbury *minor* found means, somehow or other, to break into one of the great Westminster Hall shops; in which, as often as a demand comes for the article so mis-called *justice*, bad goods are so dearly sold to all who can come up to the price, and denied, of course, to those who cannot. The china-shop scene ensued. Surprised and confounded, the shopmen exhibited that sort of derangement, which the French express by *loss of head—ils ont perdu la tête*. Under the notion of defence, confessions came out, which come now to be recorded.

Anno 1821, Nov. 21.—(The date is material.) Barnewall and Alderson's King's Bench Reports, Vol. v. p. 266.

“ IN THE MATTER OF SALISBURY (IN PERSON !)

“ Salisbury *in person* had obtain a rule *nisi*, for one of the tipstiffs of the Court, to answer the matters of his affidavit. The affidavit stated, that the tipstaff had taken a fee of half a guinea, for conveying him from the Judge's chambers, (to which he had been brought by habeas corpus) to the King's Bench prison, such fee being more than he had a right to demand, according to the table of fees *affixed in the King's Bench, in pursuance of a rule of this court*.

“ Gurney and Platt shewed cause, upon *affidavits* stating that the fee had been taken *for a very long period of time by all tipstiffs in both courts*, and that it was *allowed by the Master in costs*.

“The Court, however, adverting to the statutes 2 Geo. II. c. 22, § 4, and 32 Geo. II. c. 28, § 8, and the rule of court of *Michaelmas* term, 3 Geo. II. and the table of fees settled in the following year, said, that it was *clear*, that the tipstaff had no right to take any other fee for taking a prisoner from the Judge’s chambers to the King’s Bench prison, than six shillings, which was the fee allowed him in that table. They, therefore, ordered the fee so taken to be *returned* to the complainant.”*

Figure to himself, who can, the explosion. *Bancum regis* shaken, as by an earthquake. *Bancum regis* in an uproar! the edifice it had cost Lord Eldon twenty years to rear, laid in ruins. *We are above Parliament*, had said, as above, Lord Eldon, —“*Alas! no: at the first meeting cried Lord Abbot, I could not for the life of me, keep where you set us. I had not nerve for it. That fellow . . . such impudence! who could have thought it? As to the fees, it is from Parliament, you see, we must have them now, if at all. It may take you some little trouble; but you see how necessary it is, and you will not grudge it.*”

This is not in the report; but it is in the nature of the case, and that is worth a thousand law reports, drawn up by toads under harrows.

Think now of the scene exhibited in and by King’s Bench;—culprit and judge under one hood—Guilty or not guilty?—Not guilty? O yes, if the Master, whose every-day business it is to *tax* costs, knows not what they are: if the Chief Justice, whose every-day business it is to *hear discussions* about costs, knows not what they are, or what they ought to be.—See now how the account

* “See the table of fees in the rules of the King’s Bench, p. 241.”—Here ends the Report.

12. *Unrighteousness exposed—Felix trembles.* 39

stands:—the money account. Of the 10s. 6d. legalized, say 6s. . remains confessed to have been extorted, 4s. 6d. : sub-extortioner's profit, the 4s. 6d. : head-extortioner's, the 4s. 6d., minus $\times$: to find the value of $\times$ see above, § 4, and forget not, any more than Lord Eldon and Lord Abbot forgot, that pounds and thousands of pounds are made of pence and shillings.

Mark now another sort of account. Case, a criminal one. Co-defendants, had the list been complete, Tipstaff, Master, and Chief Justice. Had it been as agreeable to punishers to punish themselves as others, what a rich variety of choice was here! Motion for imprisonment by *attachment*, as above : for this is what is meant by *answering affidavits* : Indictment for extortion, Indictment for corruption, Indictment for conspiracy ; Information for all or any of the above crimes.

Mark now the *denouement*. The case, as above, a criminal one : the crime not punished, but without the consent of the sufferer *compounded* for ; of the fruit of the crime the exact nominal amount ordered to be restored :—not a farthing even given to the hapless master-man by whose sad day's labour thus employed, so much more than the value had been consumed in thus suing for it : with cost of affidavits several times as much. After seeing in this precedent the utmost he could hope for—what man, by whom like extortion had been suffered from like hands, would ever tax himself to seek redress for it? Redress—administered in semblance, denied in substance. With not an exception, unless by accident, such or to an indefinite degree worse, is matchless Constitution's justice !

But the punishment?—where was the punishment? This is answered already. Had the order

for redress comprised a sixpence beyond the 4s. 6d. the inferior malefactor might have turned upon his principal, and the fable of the young thief, who at the gallows bit his mother's ear off, have been realized. *Isn't it you that have led me to this? These four and sixpences that I have been pocketing—is there any of them you did not know of?* Had it not been for his mishap, would not my place have been made worth so much the more to you, by every one of them? *Is there any one of them that did not add to the value of the place you will have to dispose of when I am out of it?* Why do you come upon me then? Can't you afford it better than I can? Pay it yourself.

But—the two learned Counsel, who thus fought for the 4s. 6d. —*by whom* were they employed? by Tipstaff, Master, or Chief Justice? Not by Tipstaff, surely: seeing that his cause was so much the Chief Justice's, he would not thus have flung away his money: he would not have given six, eight, or ten guineas to save a 4s. 6d.: these, if any, are among the secrets worth knowing, and which House of Commons will insist on knowing. Insist?—But when? when House of Commons has ceased to be House of Commons.

Well, then, this four-and-sixpenny tripartite business—is it not extortion? Is it not corruption? If not, still, for argument sake, suppose, on the part of all three learned persons—all or any of them—suppose a real desire to commit either of these crimes; can imagination present a more effectual mode of doing it? Till this be found, spare yourself, whoever you are, spare yourself all such trouble as that of crying out Shame, Shame! Contempt of Court! Calumny! Blasphemy!

Contempt of Court? forsooth! If contempt is ever brought upon such Courts (and, for the good of mankind too much of it cannot be brought upon them) it is not in the telling of such things, but in the doing of them, that the culpable cause will be to be found.

Here then, we see, were Statutes—here (according to Lord Eldon's instructions) laid down as per § 9, at the outset—here were Rules of Court disposed of in the same way, and at one stroke. Anno 1801, in the first year of his reign—disposed of at one stroke, and in the same way. A liberty which might so easily be taken with Acts of Parliament—hard indeed it would have been, if a Judge might not take it with the Rules of his own Court. Conformable (we see here exactly) was this operation to the instructions laid down by him, as per § 9, just 20 years before, anno 1801, in the first year of his reign. As to the Rules of Court, it was not in the nature of the case that they should present any additional difficulty; Rules which, if it were worth the trouble, and would not make too much sensation, he might have repealed in form at any time.

Be this as it may, here was the exact case, so long ago provided for by Eldonic providence: the case, which, being the principle laid down, with virtual directions given, for the guidance of his next in command, had been made broad enough to fit. “You need not be told (say these directions) how much more obedience-worthy Common is than Statute law:—law of our own making, than any of the law we are forced to receive from Lay-gents. But, though you should find one of our own laws in your way, nay, though with one of *their's*, you should find in your way one of

our's to give validity and strength to it—never you mind that; your business is to make sure of the fees. At the same time, for decency sake, while our underlings, who get more of them than we do, are screwing them up (and you may trust *them* for *that*) you of course will know nothing of the matter. Should any unpleasant accident happen—such as the having the Table with the lawful fee, in company with the proof of the additional money habitually exacted, bolted out upon you in the face of the public, you will of course be all amazement. Though the thing can never have taken place, but under your own eye—while the prisoner was beginning to be conducted from your own chambers, where you had just been examining him—never had you so much as suspected the existence of any such difference.”

As to Lord Abbot, whatever want of disposition on his part there may have been to pay regard to Acts of Parliament, no such want could there have been as to any such instructions as these of Lord Eldon's. But whether it was that he had not got them by heart, or that when the time came to repeat them and apply them to practice, his heart failed him,—so it was—they were not followed: and so, out came the confession that has been seen: the confession in all its nakedness.

This is not all; not more than three years before, this very fee had been taken into consideration by specially-appointed authority, and the 4*s.* 6*d.* disallowed. Under the head of ‘Tipstaff,’ “the Table of 1760” (say certain commissioners, of whom presently) “directs the fee of 6*s.* to be paid to the Tipstaff that carries any prisoner committed at a Judge's chambers to the King's Bench prison.” “The fee of 10*s.* 6*d.* we conceive, to have been

§ 12. *Unrighteousness exposed—Felix trembles.* 43

taken in respect of these commitments for twenty-five years, and probably longer: but *we recommend* “that the fee of 6s. only be received in future.”*

Mark now the regard manifested by these commissioners—by these commissioners of Lord Eldon’s—for the authority of Parliament. Recommendation soft as lambskin: of the extortion, and contempt of Parliament, impudent as it was, not any the slightest intimation, unless the rotten apology, thus foisted in instead of censure, be regarded as such. Of this recommendation the fruit has been already seen: the fee taken, and for aught that appears uninterruptedly taken, notwithstanding. What?—In all the three intervening years, the Chief Justice, had he never heard of any such recommendation? never heard a *Report*, of which his own court, with the fees belonging to it, were the subject? never seen any thing of it?

And the commissioners? For what cause disallow the 4s. 6d.?—Only because the Act of Parliament, and the contempt so impudently put upon it, and the extortion and corruption for the purpose of which the contempt was put, had been staring them in the face. Men, who from such hands accept, and in this way execute, such commissions—is not some punishment their due? Yes surely: therefore here it is. Public—behold their names! 1. John Campbell, Esq. Master in Chancery;—2. William Alexander, Esq. then Master, now, by the grace of Lord Eldon, Lord Chief Baron of the Exchequer;—3. William Adams, Doctor of Civil Law;—4. William Osgood, Esq.—5. William Walton, Esq.

* Report printed for the House of Commons—Date of order for printing, 14th May, 1818. Sole subject of it: “Duties, salaries, and emoluments as to the Court of King’s Bench.”

Accompanied are these recommendations by certain *non-recommendations*. From those as to Tipstaffs, reference is made to ditto as to Marshal: and there it is, that, after stating (p. 172) that his profit arises chiefly out of two sources, of which (be it not forgotten) *the tap* is one—with this source before them it is that (after ringing the praises of it) another of their recommendations is—"that this matter be left in the hands of the court to which the prison more immediately belongs." In plain English, of the Chief Justice, whose interest it is to maximize the profit in all manner of ways, and of whose emoluments they saw a vast portion, rising in proportion to the productiveness of *this* source. Throughout the whole of the Report, except for a purpose such as this, not the least symptom of thinking exhibited: "*fees taken so much, we recommend so much*:" such throughout is the product of the united genius of these five scholars of the school of Eldon.*

See now, Mr. Peel, and in its genuine colours, this fresh fruit of the consistency of your consistent friend. See, in this rich fruit, the effect and character of his commission. Oppose now, Mr. Peel, if you have face for it; oppose now, Mr. Attorney-General, if you have face for it; oppose now, Mr. Attorney-General Copley—for neither must your name be covered up—the permitting of the House of Commons to exercise the functions of the House of Commons.

Oppose now, if you have face for it, "the dragging the Judges of the land" before the Catos

* Report of the Commissioners on the duties, salaries, and emoluments in Courts of Justice;—As to the Court of King's Bench. "Ordered by the House of Commons to be printed 14th May, 1818."

whom you are addressing—the tribunal of Parliament. Fear no longer, Mr. Peel, if ever you feared before, the obtaining credence for your assurance—that it was by Lord Eldon his Majesty was advised to commission Lord Eldon to report upon the conduct of Lord Eldon. Mr. Canning—you, who but two years ago—so light in the scale of sentimentalism is public duty weighed against private friendship, (and such friendship!)—you who, so lately uttered the so solemn promise never to give a vote that should cast imputation upon Lord Eldon, watch well, Sir, your time, and when, *these* imputations having come on, votes come to be given on them, repress then, if possible, your tears, and, wrapping yourself up in your agony, hurry out of the House.

§ XIII. *How the Chancellor went to Parliament, and got the Corruption established.*

The explosion has been seen. Blown by it into open air, was the scheme of taxing without Parliament, and in the teeth of Parliament. At the same time, a handle for denunciation was left prominent; and it has been seen how broad an one: a handle too, which some *Williams* or other might at any time lay hold of, and give trouble: the trouble which the driver of pigs has with his pigs—the trouble of collecting Honourable Gentlemen together, and whistling them in when the question is called for. Delay, therefore, was not now in season. Nov. 21, 1821, was the day on which the breach, as above, was made: a session did not pass without proving for the repair of it: the 10th of June, 1822, is the day on which the first stone was laid; and how thorough and complete the repair is, remains now to be shown.

The hand of Parliament being the only applicable instrument, stooping at last to employ it could not but be more or less mortifying to a workman to whom, for so many years, it had been a football. But, to Lord Eldon, the part of the reed is not less familiar than that of the oak; and what was lost in universally applicable power will be seen gained in ease and tranquillity, reference had to this special and most valuable use of it.

Act 22 July 1822, 3 Geo. IV. c. 66. Title, "An Act to enable the Judges of the several Courts of Record at Westminster to make regulations respecting the fees of the Officers, Clerks, and Ministers of the said Courts."

The preamble has been seen: business of it, skinning over the past illegality, section 6. Business of the first, empowering these same Judges to screw up to a maximum, and without stint, the accustomed fees: of the second, to add any number of new ones; of the third, making it to this effect, the special duty of all underling to do whatever their masters please: of the fourth, anxiously easing them of the trouble of regulating Solicitors' fees, forasmuch as nothing was to be got by it: of the fifth, providing, as has been and will be seen, for the concealment of the fees as before, should more be to be got at any time by their being concealed than by their being known: of the sixth, which is the last, providing compensation for any the smallest fee, which, by accident, should happen to slip out: should any such misfortune ever happen, the losers are not only authorized, but "*required*," to tell "*his Majesty*" of it.

For every possible additional *duty*, an additional fee or batch of fees: Good. In § 14, or elsewhere, it will be seen how it is that, by multiplying such

duties under the rose, equity pace, and equity cost, have been rendered what they are.

Everything at “*discretion* :” (§ 1 :) everything as they “*shall see fit* :” (§ 1 :) the people of England, all who have redress to seek for injury from without doors—all who have to defend themselves against any of those injuries of which these same Judges are the instruments—all who have to defend themselves against injuries, the seat of which is in the pretended seat of redress—all who have to defend themselves against the attacks of any of those villains with whom Lord Eldon has thus placed these Judges, together with himself, in partnership—all, all are thus delivered up bound, to be plundered in secret, without stint or control, by the hand of these same Judges. Never could more solicitude have been demonstrated : never more appropriate talent, as well as care, expended in satisfying it : so exquisite the work, the most exquisitely magnifying microscope might be challenged to bring to view a flaw in it. In the style of English legislation, it may be given as a model : as a study—for a young draughtsman, who, for sections a yard long, looks to be paid at so much a word. The same hand, which, had no better interest than the public’s been to be provided for, would have left loop-holes, through which the entire substance of the measure might be extracted, has, in this its darling work, as if by an hermetic seal, closed all such crannies. Could this pamphlet have been made to hold it, I should have copied it, and pointed out the beauties of it. For comprehensiveness it has but one rival, and that is in the law called *Civil Law*. *Quod principi placuit legis habet vigorem*. For *principi*, put *judici*, you have

the Act of *English Law*—the Act of George the Fourth.

The enacting part could not be too clear of equivocation : and not a particle is to be found in it. The preamble presented an irresistible demand for equivocation ; and here it is. Seen already (in § 5) has been this same preamble, with its essential word *effectually*. Note here the use of it : it is this. The more *effectually* to turn men's minds aside from the idea of the illegality,—causing them to suppose, that though nothing had been done but what was *legal*, strictly legal, yet, to give to what had been done its full effect, legal *machinery* in some shape or other was needed, in addition to such as learned workmen stood already provided with : and that, to give existence to such additional machinery, was accordingly the object of the Act. Now, the fact is that no such additional machinery does the Act provide or attempt to provide : not an atom of it. What it does, is—easing the hands of the criminals, of whatsoever check they felt applied by the consciousness of their so lately divulged criminality,—thus giving to them the undisturbed power of taxing the people for their own profit, without stint ; and, for this purpose, rendering that power which had so long been arbitrary in *fact*, at length arbitrary by *law*.

Remains the clause about keeping the table of fees exposed to view. They are to be “ kept hung up ”—these tables of fees—“ hung up in a *conspicuous part* of the ” room. Good : and while there hung up, what will be the effect of them ? The same as of those hung up in virtue of those former statutes of George II, with the King's Bench Rule that followed them. The *place* they are hung up in, is to be a conspicuous one. Good :

but the *characters?* of these nothing is said; so that here is a loophole ready made and provided.

In the above-mentioned case,* which produced the demand for this act, a document, referred to as a ground of the decision, is—a Rule of Court of Michaelmas Term, 3 Geo. II,† and “the Table of Fees settled in the following year.” In article 8, of the document intituled “Rules and Orders,” &c. mentioned in that same Rule of Court, which without any title, is in Latin, in speaking of the Table of Fees, it is said, that it shall be “fairly written in a plain and legible hand.” With this clause lying before him—and he could not but have had it lying before him—with this clause lying before him it is, that the penner of this same Act of Lord Eldon’s contents himself with speaking about the *place*, and says nothing about the *hand*.

What the omission had for its cause, whether design or accident, judge, whosoever is free to judge, from the whole complexion of the business. Not that even in this same Rule of Court, with its “*fair and legible hand*,” there was anything better than the semblance of honesty. Tables of Benefactors to Churches and Parishes—Tables of Turnpike Tolls—were they, even in *those* days, *written in a fair and legible hand?* No: they were painted in print hand, as they are still, in black and gold. But, if instead of *fair and legible*, the characters should come to be microscopic, and as illegible a scrawl as can be found—suppose in the grim-gribber hand called *Court hand*—a prece-

* 1821. Barnewell and Alderson, vi. 266.

† See the book intituled “Rules, Orders, and Notices, in the Court of King’s Bench . . . to the 21 Geo. II. inclusive.” 2nd. edit. 1747. Page not referable to, there being no paging in the book!

dent of this sort will not be among the authorities to be set at nought: this will not be among the cases, in which, according to Lord Eldon's consistency, as per page 300, "It would be more consistent to suppose some ground appeared to former Judges, upon which it" (the Act of Parliament, or the Rule of Court, or both) "might be rendered consistent with the practice"—meaning, with the practice carried on in violation of them.

Lord Eldon's Act, or *The Eldon Act*, should be the style and title of this Act. Precedent, *Lord Ellenborough's Act*,—so styled in a late vote paper of Honourable House:* *Lord Ellenborough's Act*, sole, but sufficient and characteristic, monument, of the legislative care, wisdom, and humanity of that Peer of Parliament, as well as Lord Chief Justice.†

As to the Chancellor's being the *primum mobile* of the Act,—only for form's sake, and to anticipate cavil, can proof in words be necessary. The Bill being a Money Bill, it could not make its first appearance in the House in which Lord Eldon rules these matters by his own hand. The Members, by whom it was brought into the only com-

* May 17th, 1825.

† Note, that "*effectually*," as all *future* corruption is sanctioned, nothing is said of any that is *past*. If, in the situation in question, the word *responsibility* were anything better than a mockery, the fate of Lord Macclesfield—and on so much stronger grounds—would await Lord Eldon, his instruments, and accomplices. But, forasmuch as all such responsibility is a mere mockery, the only practical and practicable course would be—for some Member (Mr John Williams, for example,) to move for a *Bill of Indemnity* for them: which motion, to prove the needlessness of it, would call forth another stream of Mr Peel's eloquence: a reply might afford no bad occasion for Whig wigs, could a decent cloak be found for their departed saint.

petent House, were the two Law Officers: and that, by these two official persons, any such Bill could, consistently either with usage or propriety, have been brought in otherwise than under the direction of the Head of the Law, will not be affirmed by any one. The Act, then, was LORD ELDON'S Act.

§ XIV. *How the Head of the Law, seeing Swindling at work, continued it, and took his profit out of it.*

Swindling is an intelligible word: it is used here for shortness, and because familiar to everybody. Look closely, and see whether, on this occasion, it is in any the slightest degree misapplied.

By statute 30 Geo. II, c. 24. § 1: “*All persons who knowingly or designedly, by false pretence, or pretences, shall obtain from any person, or persons, money with intent to cheat or defraud any person, or persons, of the same, . . . shall be fined or imprisoned, or . . . be put in the pillory, or publicly whipped, or transported . . . for . . . seven years.*”*

1. *All persons*, says the Act. If then a *Master in Chancery*, so comporting himself as above, is not a person, he is *not* a swindler: if he is a person, *he is*.

2. And so, in the case of a *Commissioner of*

* Let it not be said, that to come within this Act it is necessary a man should have proposed to himself the pleasure of being, or of being called, a *cheat*; the man the Act means, if it means any man, is he who, on obtaining the money by any false pretence, intends to convert it to his own use. Instead of the words *cheat* and *defraud*, words which,—and not the less for being so familiar—require a definition, better would it have been, if a definition such as the above had been employed. But logic is an utter stranger to the Statute-book, and without any such help from it as is here endeavoured to be given, the Act has been constantly receiving the above interpretation in practice.

Bankrupts, if any one there be who has *so* comported himself.

3. So likewise in the case of any other functionary, holding an office under Lord Eldon.

4. So likewise in the case of every *Barrister*, practising in any of the Courts in or over which Lord Eldon is Judge: in the case of every such *Barrister*, if *so* comporting himself.

5. Add every *Solicitor*.

If, however, it is true, as indicated in the samples given in § 2, that in the case of the *Solicitor*, in respect of what he does in this way, he is, by the subordinate Judge (the aforesaid Master) not only to a great extent *allowed*, but at the same time to a certain extent *compelled*,—here, in his case, is no inconsiderable alleviation: in the guilt of the official, that of the non-official malefactors is eclipsed, and in a manner swallowed up and drowned.

So far as regards Masters in Chancery, to judge whether, among those same subordinate Judges under Lord Eldon, there be any such person as a *swindler*, and if so, what number of such persons, see the sample given in § 2.

Same question as to Commissioners of Bankrupts, concerning whom, except as follows, it has not as yet been my fortune to meet with any indications. Lists of these Commissioners, 14: in each list, 5: all creatures, all removable creatures—accordingly, all so many virtual pensioners during pleasure—of Lord Eldon. Further subject of enquiry, whether these groupings likewise be, or be not, so many gangs of his learned swindlers.

Indication from the Morning Chronicle, Friday, April 15, 1825.

At a Common Council, Thursday, April 14,

Information given by Mr *Favel*. Appointment made by list 2 of these Commissioners, for proof of debts in a certain case: hour appointed, that from 12 to 1: Commissioners named in the instrument of appointment, Messrs. *Glynn*, *Whitmore*, and Mr M. P. *Horace Twiss*. Attendance by Mr *Glynn*, none: by Mr *Whitmore*, as little: consequence, nothing done: by Mr *Horace Twiss*, an hour and a half after the commencement of the appointed time, half an hour after the termination of it, a call made at the place. Had he even been in attendance from the commencement of the time, instead of stepping in half an hour after the termination of it, still, Commissioners more than one not being present, no business could (it seems) have been done. To what purpose, then, came he when he did, unless it was to make a title to the attendance-fee? Moreover, for this *non-attendance* of theirs, Messrs *Glynn* and *Whitmore*, have they received their *attendance* fees? If so, let them prove, if they can, that they are not swindlers. Mr *Horace Twiss*, who does not attend any part of the time, but steps in half an hour after, when his coming cannot answer the purpose, has *he* received for that day any attendance fee? If so, then comes the same task for him to perform. Mr *Favel's* candour supposes some excuse may be made for Mr *Twiss*: if so, a very lame one it will be. An option he should have had to make, is, to do his duty as a Commissioner of Bankrupts, and not be a Member of Parliament, or do his duty as a Member of Parliament (oh, ridiculous!) and not be a Commissioner of Bankrupts:—a Commissioner of Bankrupts, and, as such, one of Lord Eldon's pensioners. Convinced by his commissionership of the immaculateness of his patron, Commissioner makes a speech for patron, much,

no doubt, to the satisfaction of both. Should a Committee be appointed to inquire into Chancery practice, there, Mr Peel, there, in Mr *Twiss*, you have a *Chairman* for it.

Meantime, suppose, for argument sake, Mr *Twiss* comporting himself in any such manner as to give just cause of complaint against him—be the case ever so serious—to what person, who had any command over his temper, would it appear worth while to make any such complaint? To judge whether it would, let him put the question to Mr *Lowe*, as per § 10.

These men—or some (and which?) of them—being so many swindlers,—he who, *knowing* them to be so, *protects* them in such their *practices*, and shares with them—with all of them—in their *profits*, what is *he*? Is not he too either a *swindler*, or, if distinguishable, something still worse? If, with strict grammatical or legal propriety, he cannot be denominated a receiver of *stolen* goods,—still, the *relation* borne by him to these swindlers, is it not exactly that which the *receiver* of stolen goods bears to the *thief*? *Masters* in Chancery, 10: *Commissioners of Bankrupts*, 90; together, 100; and, upon the booty made by every one of them, if any, who is a swindler, does this receiver of a portion of their respective gains make his profit: these same swindlers, every one of them, made by him what they are.—Stop! Between the two sorts of receivers,—the thief-breeding and the swindler-breeding receivers,—one difference, it is true, there is. The *thief-breeder*, though, in so far as in his power he gives *concealment* to his confederates, he does not, because he cannot, give them *impunity*: whereas, the *swindler-breeding* receiver, seeing that he can, gives both.

Masters in Chancery—creatures of this same

creator, almost all, if not all of them—is there so much as one of them who is not a swindler? an habitual swindler? Say no, if you can, Lord Eldon! Say no, if you can, Mr Secretary Peel! Deny, if you can, that your Mentor is in partnership with all these swindlers. Deny it, if you can, that, out of those who have accepted from him the appointment of reporting him blameless, two are of the number of these same swindlers!

“Oh! but,” by one of his hundred mouth-pieces, cries Lord Eldon, “nothing has he ever known of all this: nothing, except in those instances in which his just displeasure at it has well been manifested. Whatever there be that is amiss, never has been wanting the desire to rectify it—the anxious desire But the task! think what a task! think too of the leisure, the quantity of leisure necessary! necessary, and to a man who knows not what it is to have leisure! Then the wisdom! the consummate wisdom! the recondite, the boundless learning! Alas! what more easy than for the malevolent and the foolish to bespatter with their slaver the virtuous and the wise!”

Not know of it indeed? Oh hypocrisy! hypocrisy! The keeper of a house of ill-fame . . . to support an indictment against him, is it necessary that everything done in his house should have been done in his actual presence? Ask any barrister, or rather ask any solicitor, whom retirement has saved from the Chancellor’s prospect-destroying power—ask him, whether it be in the nature of the case, that of all the modes in which depredation has been practising in any of his courts, there should have been so much as one, that can ever have been a secret to him?

No *time* for it, indeed! Of the particular *time*

and *words*, employed by him in talking backwards and forwards, in addition to the already so elaborately-organized general mass, as if to make delay and pretences for it, a thousandth—a ten thousandth part—would have served an honest man anywhere for a reform: a reform, which, how far soever from complete, would suffice for striking off two-thirds of the existing mass, and who can say how much more?

Have you any doubt of this, Mr Peel?—accept then a few samples.

1. Reform the first. (Directed to the proper person.) *Order* in these words. *Charge for no more days than you attend.* Number of words, eight. At the Master's office off go two-thirds of the whole delay, and with it of the expense.

2. Reform the second. *Text.* *On every attendance-day attend ten hours.* *Paraphrase.* Attend these ten, instead of the five, four, or three, on which you attend now. For your emolument, with the vast power attached to it, give the attendance which so many thousand other official persons would rejoice to give for a twentieth part of it.

3. A third reform. *In the year there are twelve months: serve in every one of them. Months excepted for vacation, those in which no wrong that requires redress is practised anywhere.*

4. A fourth reform. You are one person: any clerk of your's, another. The business of any clerk of your's is to serve *with* you, not *for* you. Serving by another is not serving, but swindling.

Small as is the number of words in the above proposed Orders, anybody may see how many more of them there are than are strictly needful to the purpose of directing what it is desired shall be done.

Numerous are the reforms that might be added: all of them thus simple; many of them still more concisely expressible.

Oh, but the *learning* necessary! the recondite lore! fruit of mother Blackstone's twice twenty years' lucubrations! Learning indeed? Of all the reforms that have been seen, is there a single one that would require more learning than is possessed by his lordship's housekeeper, if he has one, or any one of his housemaids?

Wisdom necessary for anything of all this? Oh hypocrites! nothing but the most common of all common honesty.

Of those whom, because unsuccessful, poor, and powerless, men are in the habit of calling *swindlers*, the seat—that of many of them at least—is in the *hulks*: of those hereby supposed swindlers, whom, because rich and powerful, no man till now has ever called *swindlers*—the seat—the seat of *ten* of them at least—is in the *House of Lords*. As between the one class and the other, would you know in which, when the *principle of legitimacy* has given way to the *greatest-happiness-principle*, public indignation will press with severest weight? Set them against one another in the balance.

1. *Quantity of mischief* produced? is that among the articles to be put into the scale?

Nothing, in comparison, the mischief of the second order: nothing the *alarm* produced by the offence of him whose seat is in the *hulks*. Against all such offences, each man bears what, in his own estimation, is little less than an adequate security—his own prudence: a circumstance by which the *swindler* is distinguished, to his advantage, from the *thief*. No man can, for a moment, so much as fancy himself secure against the hand of the

swindler, if any such there be, whose seat is in the *House of Lords*. United in that irresistible hand, are the powers of fraud and force. Force is the power applied to the victim; fraud, the power applied to the mind of the public; applied as, with but too much success, it has been hitherto, to the purpose of engaging it to look on unmoved, while *depredation*, in one of its most shameless shapes, is exercised under the name of *justice*.

2. *Premeditatedness*—is it not in possession of being regarded as operating in extenuation of moral guilt? *deliberateness*, as an aggravation? *deliberateness*, does it not, in case of homicide, make to the offender the difference between death and life, under the laws of blood so dear to Honourable Gentlemen—Noble Lords, and Learned Judges? Of those swindlers, whose seat is in the hulks, how many may there not be, whose delinquency may have been the result of a hasty thought begotten by the craving of the moment? Answer and then say—of the swindler, if any such there be, whose seat is in the House of Lords, the offence is it not the *deliberate*, the *regularly repeated*, the *daily repeated*, the *authentically recorded* practice?

3. *Quantity of profit made*—is that among the circumstances that influence the magnitude of the crime? For every penny made by the swindler whose seat is in the *hulks*, the swindler, if any, whose seat is in the *House of Lords*, makes 6*s.* 8*d.* six-and-eight-pence? aye, six-and-eight-pences in multitudes.

4. *Indigence*—is it not in possession of being regarded as operating in extenuation of moral guilt? all have it of those whose seat is in the *hulks*. No such extenuation, but on the contrary, the opposite aggravation have they, if any, whose seat is in the *House of Lords*.

5. *Uneducatedness*—is it not in possession of being regarded as operating in extenuation of moral guilt? Goodness of education, or, at least, the means of it, as an aggravation? The extenuation, you have in the case of those whose seat is in the *hulks*: the aggravation, in the case of those, if any, whose seat is in the *House of Lords*.

5. *Multitude of the offenders*—does *that* obliterate the crime? Go then to the *hulks* and fetch the swindlers who serve *there*, to sit with their fellows, if such there be, who serve in the *House of Lords*.

6. *Long continuance* of the practice—is it in the nature of that circumstance to obliterate the crime? Much longer have there been swindlers out of the Master's office than there can have been in it. The earliest on record are those who “spoiled the Egyptians:” but with them it was all pure fraud: no force was added to it.

Learning—appropriate learning—of demand for this endowment, assuredly there is no want: and not only for this, which every lawyer speaks of, but for original and originating genius—an endowment which no lawyer ever speaks of. Adding to the mass in the *Augean Stable*, every *ox* had wisdom enough for: every *ox* that ever was put into it: to employ a river in the cleansing of it, required, not the *muscle*, but the *genius* of a *Hercules*.

Wisdom? Yes, indeed: but of what sort? Not that which is identical with, but that which is opposite to, Lord Eldon's. Years spent in the pursuit of those which we have seen to be the *actual ends of judicature*, four-and-twenty. True: but by every year thus spent, a man will have been rendered, not the more, but so much the less apt, for pursuing the *ends of justice*. Lord Eldon

serve the ends of justice? He knows not even what they are. Ask him what they are—at the end of half an hour employed in talking backwards and forwards, he will conclude with his speech in *Ex-parte Leicester*, and the passage that has been seen in it. Ask what are the ends of justice?—Thirty paces are more than I need go, to see boys in number, any one of whom, when the question had found him mute, or worse than mute, could answer and take his place.

Yes: in that man, in whom the will has been vitiated as his has been, the understanding—sure as death—has been vitiated along with it. Should a pericranium such as his ever meet the hand or eye of a Gall or a Spurtzheim, they will find the organ of justice obliterated, and the organ of *chicane*,—a *process* from their organ of *theft* grown up in the place of it.*

* How to grant licence under the guise of censure :

Extract from the Examiner, Nov. 7, 1824:—

“*The Six Clerks.*—In the Court of Chancery, on Monday, the following conversation occurred. An affidavit having been handed to the Lord Chancellor, his Lordship asked, ‘What is the meaning of “Agent to a Six-Clerk,” which I see there? What is his business?’—Mr Hart’s client stated, that the Agent was a person who manages the business for a Six-Clerk.—Lord Chancellor: ‘And what does the Six-Clerk himself?’—Solicitor: ‘Attends the Master.’—Lord Chancellor: ‘Then he is entirely out of the business of his own office: he does nothing in it?’—Solicitor: ‘Nothing, my Lord.’—The Lord Chancellor (after a pause): ‘When I came into this Court, the Six-Clerks were the most efficient Solicitors in the Court of Chancery. Some of the most eminent Solicitors were Clerks of that class, and used to transact their business, and draw up minutes with such ability, that we had few or no motions to vary minutes. But now the Six-Clerk abandons his business to a person who knows nothing at all about it. ’Tis no wonder then that delays have crept into the practice, which we formerly knew nothing of. However, before it proceeds fur-

§ 15. *Swindling connived at, and profited by.* 61

If I misrecollect not, this section has been referred to for something to be said, as to the profit capable of being derived from the source here spoken of: if so, the reader's indulgence must be trusted to for a respite, till the entire of the Judges' Salary-raising measure has been found ripe for a view to be taken of it.

§ XV. *How King George's Judges improved upon the precedent set by King Charles's in the case of Ship-money.* See above, § 9.

The improvement was an altogether simple one. The pocket, which received the produce of the tax imposed by King Charles's judges, was the King's. The pocket, which received and receives the pro-

ther, I'll take care that Solicitors in this Court shall be obliged to transact their business in person."

'When I came into this Court:' that is to say, four-and-twenty years ago. Good, my Lord, and where have you been ever since? Incessant have been such threats: constant the execution of them with the same punctuality as in this case. What Solicitor, what Barrister, is there, that does not understand this? Who that does not know, that, where official depredation is concerned, what in English is a threat, is in Eldonish a licence?

When, as per sample in § 2, page , 700*l.* was exacted in reduction of a demand of we know not how much more, for office copies of a Particular of Sale—office copies for which there was as much need, as for those which, according to the story, were once taken of the Bible—on that occasion was there any of this vapouring? Silent as a mouse was this Aristides, who could not endure the existence of the harmless Agent, whose agency consisted in looking over the books, to see that his employers, the Six Drones, were not defrauded of the per-centage due to them from the labours of the Sixty working-bees. But this summer-up of six-and-eightpences was an intruder. Lord Eldon's patronage was not increased by him, while official secrets were open to him. Such was his offence.

duce of the tax imposed by King George's Judges, was and is their own.

Now for consistency—now for the use of this same principle as a precedent: a precedent set, and with this improvement, in the seats and sources of what is called justice, and thence offered to the adoption of the other departments. But what applies to this purpose will be better understood when the consummation given to the system by the pending measure comes to be brought to view.

What *they* did, they contented themselves with doing, as it were, by the *side* of Parliament: giving indeed their sanction to the operations of an authority acting without Parliament,—but not, of their own authority, taking upon themselves to obstruct and frustrate the operations of Parliament. Never did *they* levy war against the authority of Parliament. Never did *they* make known by express terms, that whatever Parliament had ordained should, as they pleased, go for anything or for nothing. Never did they adjourn obedience *sine die*. Never did they say—“*A practice having prevailed . . . contrary to an Act of Parliament . . . it would be better to correct it in future not in that particular instance.*”*

§ XVI. *How to be consistent, and complete the Application of the Self-serving Principle.*

Now as to consistency. You, Lord Eldon, you who practice consistency,—you, Mr Peel, you who admire it,—go on as you have begun. Assisted by your official instruments, you have planted in the statute-book, after having established it in practice, the self-serving, the self-corrupting, the

* Lord Eldon, in vi. Vesey, jun. p. 433, as above, p.

§ 16. *How to universalize the Self-paying Principle.* 63

self-gorging principle. You have rooted it in one department: plant off-sets from it in the others. You have covered with it the field of Justice: go on with it, and cover with it the field of force.

Repair, in the first place, the ravage so lately made by the fabled dry-rot; that dry-rot which, not content with timber, rotted the china and the glasses. Give to the Duke of York the power of settling the pay of his subordinates, and levying, by his own order, the amount of it. . . . What! do you hesitate? Not to speak of loyalty, all pretence then to consistency is at an end with you. Dignity is, in your creed, the one thing needful: your judges are brimful of it, at least if it be in the power of gold to make them so. So far, "everything is as it should be." But the Commander-in-chief—not to speak of the Heir to the Crown—has he not, in his situation, demand enough for plenitude of dignity? And forasmuch as, in your mathematics, Mr Robinson—applied to administration of justice, aptitude is *as* dignity,*—say, if you can, how the same proposition should fail when applied to the still more dignified function of wielding military force?

Apply it next to the Navy. For the benefit of Lord Melville and his Croker, give legality to

* In Mr Robinson's speech of 16th May 1825, as per *Globe and Traveller* of the next day, no less than *ten* times (for they have been counted) was this *ratio* assumed in the character of a *postulate*: assumed by the Finance Master, and by his scholars, *nemine contradicente*, acknowledged in that character: every one of them, for self, sons, daughters' husbands, or other *et cæteras*, panting, even as the hart panteth after the water-brooks, for the benefit of it. Number of repetitions, *ten* exactly; for Mr Robinson had not forgot his Horace—with his *decus repetitu placebunt*.

ship-money, as, for the benefit of Lord Eldon and his Abbott, you have given it to extortion and denial of justice. Legalizing that mode of supply, now in the 19th century, you will add to it the improvements you have found for it in your own genius and your own age. You will not, as did the creatures of Charles I, make the *faux pas* of putting the produce into the King's pocket. No; you will remember what that experiment cost his Majesty's predecessor. You will, if you can get leave of envy,—you will put it into the pockets of Lord Melville, Mr Croker, and their friends, and thus, in the navy department likewise, “will everything be as it should be.”

Rhetoric and fallacy all this (says somebody). Fallacy?—Not it, indeed: nothing but the plainest common sense. Suffer not *yourself* to be blinded by one of those fallacies which timidity and self-distrust are so ready to oppose to indisputable truth. Say not to yourself, *all this is strong, therefore none of it is true.*

What *I do not* say is that, in the two supposed cases, the *mischief* of the application is as great as in the real one,

What *I do* say is, that the *principle* would not be *different*. The principle different? no: nor the course taken more palpably *indefensible*.

§ XVII. *How Lord Eldon planned and established, by Act of Parliament, a Joint Stock Company, composed of the Westminster Hall Chiefs, and dishonest Men of all Classes.*

In general, Joint-stock Companies are no favourites with Lord Eldon; but general rules have their exceptions.

That between dishonest men of all classes,

Judges taking payment to themselves out of a fund common to both, the strictest community of interest has place, has been proved, if anything was ever proved, over and over. A tax, into what pocket soever the money goes, cannot be imposed on *judicial pursuit*, but, to all who cannot advance the money, justice is denied, and all those who fail to do what has thus been rendered impossible to them, are delivered over to injury in all shapes, at the hands of all persons who are dishonest enough to take advantage of the licence so held out. A tax, into what pocket soever the money goes, cannot be imposed on the necessary means of *judicial defence*, but it offers, to all who can advance the money, and are dishonest enough to accept the offer, an instrument, wherewith, by the power of the Judges, yet without their appearing to know anything of the use thus made of it, injury, in almost every imaginable shape, may be inflicted,—inflicted with certainty and impunity, and the correspondent sinister profit reaped, at the charge of all those who are not able to purchase the use of that same instrument for their defence. Thus, in so far as the produce of the exaction goes into the Judge's pocket, the interest of the dishonest man cannot, in either of those his situations, as above, be served, but the interest of the Judge is served along with it.

Of a partnership contract, whatever else be among its objects, one object, as well as effect, is the establishing a community of interest between the several members: and, if the persons acting so described are not dishonest; and if, between them and the Judge in question, a community of interest is not formed; let any one say, who thinks he can, in what more indisputable way it is in the power of man to be dishonest; and whether, between

such a set of men and a set of dishonest Judges, it would be possible for a community of sinister interest to be formed.

Not less difficult will it be found to say, how any man, Judge or not Judge, can fail to be dishonest, who, receiving money in proportion, consents, and with his eyes open, to the habitual promotion and production of injury in all imaginable shapes, in both or either of the situations described as above.

True it is that, in general, Joint-stock Companies, any at least that can be named on the same day with this for magnitude, have not been formed without *a charter* : and that, on the occasion here in question, no charter has been employed. Not less true is it, that in the establishment of other Joint-stock Companies, the power of Parliament has been employed ; and that, in the establishment of the Joint-stock Company in question, that hand, so superior to all morality, has, in the manner shown in § 13, most diligently and effectually been employed. In the concession of a charter, the hand of the Chancellor is regularly employed : and, in the passing of the Acts of Parliament in question, it has been shown, how that same learned hand has not been less primarily and effectually employed.

Such being the *partnership*, now as to the terms of it. A species of partnership as well known as any other is,—A. finds money ; B. skill and labour. Of the partnership here in question, such are the terms.

Head of the firm, beyond all dispute, Lord Eldon. Found by him, in by far the greatest abundance, skill, labour, power, and example. Looked for by him, and received accordingly, profit in correspondent abundance. Behold then, the firm

of Eldon and Co. By what other name can the firm, with any tolerable degree of propriety, be denominated?

Apprized of the existence of this partnership, *Judge and Co.* is the denomination by which, for I forget what length of time—some thirty or forty years probably—in print as well as in conversation, I have been in the habit of designating it: not a pen, not a voice having ever raised itself to controvert this undeniable truth. But though established by intrinsic power—by that power which is so much in the habit of setting at nought that of Parliament—never till Lord Eldon stood up, and with so much ease carried the matter through as above, was this Coryphæus of Joint-stock Companies established by an express Act of Parliament.

One all-embracing and undeniable truth, when the public mind is sufficiently familiarized with it, will remove doubts and difficulties in abundance; it will serve as a key to everything, that, in this country, has ever been done in the field of judicial procedure. From the Norman conquest down to the present time, diametrically opposite to the ends of justice have been the actual ends of judicature: judicial establishment and judicial procedure included, but more especially judicial procedure. Paid, as Judges have been, by fees,—paid by taxes, the produce of which has all along been liable to be augmented, and been augmented accordingly by themselves, at no time could the system have been in any better state. Suppose that in those their situations, and *that* in the most barbarous times, Judges would have for the end of action the happiness of suitors?—As well might you suppose that it is for the happiness of negroes that planters have all along been flogging negroes; for the good of Hindoos that the Leadenhall

Street Proprietors have all along been squeezing and excoriating the sixty or a hundred millions of Hindoos.

§ 18. *How the King's Chancellor exercised a dispensing Power.*

To those who have read §§ 9 and 10, or § 9 alone, this can be no news. But of the nature and magnitude of the dispensing power thus assumed and exercised by Lord Eldon, conception may be helped by a few words more.

James the Second and his advisers operated openly and rashly. Prerogative in hand, they ran a-tilt against Parliament law. Lord Eldon was Lord Eldon. In a cause of no expectation, out of sight of all *lay-gents*,—out of sight of all men but his co-partners in the firm, of which he is the head; he laid down the fundamental principle. When, under a so unexpected opposition, his good humour, habitual and pre-eminent as it is, forgot itself for awhile,—not so his prudence. Taking instruction from the adversary, he made a full stop: nor, till the impediment ceased, could he be made to move a step, by all the importunity we have seen employed, in the endeavour to urge him on towards the consummation of his own schemes.

Still out of the sight of *lay-gents*, when on the cessation of the interregnum, he remounted the throne, and, like Louis XVIII, reaped the benefit of whatever had been done for the consolidation of it by the usurper,—the obstructor, persevering as we have seen him, being for the time dispirited by the rebuff received from Lord Erskine, under the tuition of the learned Jack-of-both-sides,—still, he imposed not any fresh tax, contenting himself with increasing—in the manner and to the

extent, samples of which have been seen in § 2—the produce of those he found established. Nor was this the whole of his labour or of his success: for we have seen how (still out of sight of the *lay-gents*) at times and in ways altogether invisible to unlearned eyes (at what tables and over what bottles, must be left to imagination) he had succeeded in completely impregnating his Westminster Hall creatures, and, in their several Judicatories, giving complete establishment to his plan, as well in principle as in practice.

Then again, when another unexpectable mishap befel him, and the webs, which the united strength of so many learned spiders had, for such a length of time, been employed in weaving, were broken through and demolished altogether by the irruption of one poor hunted fly,—even this shock, severe as it could not but be, did not make him relinquish his high purpose. Bold, where boldness was requisite, pliant where pliancy, all the sacrifice it brought him to was—the accepting from Parliament, and that too with improvement, the consummation of the ambitious and rapacious plan, at the commencement of which the nature of the case had obliged him to act, though with all prudent and practicable secrecy, against Parliament.

Thus much as to the *mode*—now as to *effect*: and the *extent* given to it. *James the Second*, with his dispensing power, placed a catholic priest in the Privy Council, and a catholic or no less obsequious protestant fellow, in an Oxford college. *John the Second* gave the dispensing power not only to himself but to all his underlings, covering thus, with a so much more profitable power, the whole field of judicature.

§ XIX. *Character Evidence.*

Against specific indications such as these, Honourable House and the Old Bailey receive a sort of evidence, which is neither quite so easily obtained, nor quite so efficient when obtained, in the Old Bailey as in Honourable House. It may be called, and, for aught I know, is called, *character evidence*. *Quantity*, in pretty exact proportion to that of the hope and fear, of which he, who is the subject of it, is the object. *Quality*, determined by the same causes. *Colours*, two—white and black.

But for my old friend Mr Butler, no such evidence as this would have been offered—no such section as this have been written. Nor yet, if in the laud heaped up by him upon Lord Eldon, he had contented himself with using his own hand. But the hand, to which he has assigned this task, is the hand of Romilly: that confidence-commanding and uncontradictable hand, which for this purpose, resurrection-man like, he has ravished from the tomb.

Having, in the course of between thirty and forty years' intimacy, been in the habit of hearing sentiments of so widely different a tendency, on every occasion, delivered in relation to this same person,—silence, on an occasion such as the present, would have been so little distinguishable from assent, that I could not sit easy without defending myself against what might otherwise have appeared a contradiction, given to me by my departed and ever-lamented friend.

In relation to Lord Eldon, I have no doubt of Romilly's having used language, which, at a distance of time, and for want of sufficient discrimination, might naturally and sincerely enough,

by a not unwilling hand, have been improved into a sort of panegyric thus put into his mouth. But, by the simple omission of one part of it, the strictest truth may have the effect of falsehood.

With a transcript of the panegyric in question, or of any part of it, I will not swell these already too full pages. Suffice it to mention my sincere wish, that it may be compared with what here follows.

By my living friend,—my departed friend, I have reason to think, was never seen but in a mixt company: assured I well am, and by the declaration of my departed friend, that between them there was no intimacy. Between my departed friend and myself, confidence was mutual and entire.

Romilly was among the earliest, and, for a time, the only efficient one of my disciples.*

To Romilly, with that secrecy which prudence dictated, my works, such as they are, were from first to last a text-book: the sort of light in which I was viewed by him, was, in Honourable House, in his own presence, on an ever memorable occasion, attested by our common friend, Mr Brougham.†

Not a *reformatiuncle* of his (as *Hartley* would have called in) did Romilly ever bring forward, that he had not first brought to me, and conned over with me. One of them—that in which Paley's love of arbitrary power was laid open—was borrowed from

* He was brought to me by my earliest—the late *George Wilson*, who, after leading the Norfolk Circuit for some years, retired with silk on his back to his native Scotland.

† Hansard's House of Commons Debates, 2nd June 1818. "He (Mr Brougham) agreed with his hon. friend, the member for Arundel, Sir S. Romilly, who looked up to Mr Bentham with the almost filial reverence of a pupil for his tutor."

my spiders, under whose covering they may still be found. The project so successfully opposed by Lord Eldon's Sir William Grant—the endeavour to prevail upon Honourable Gentlemen to divest themselves of the power of swindling in their individual capacities,—was, to both of us, a favourite one. Nothing of this sort could ever come upon the carpet, but the character of Lord Eldon came of necessity along with it: a few lines will give the substance of volumes. The determinate opposer of everything good; the zealous, able, and indefatigable supporter of everything evil, from which, to the ruling one or the ruling few, reputed good, in any the smallest quantity, at the expense of the many, appeared derivable.

“Well! and what chance do you see of the evil genius's suffering it to pass?” This, on one part was the constant question. “Why . . . just now things are so and so:” stating, or alluding to, some hold, which, at the moment, he thought he might have upon Lord Eldon. A favourable circumstance was—that, though regarding the M.P. with the eye with which he could not but regard one of the most troublesome of his political opponents,—the Chancellor—such, in his estimation, was the legal knowledge and judgment of Romilly—was in the habit of paying to the arguments of this advocate not less, but even more, deference, than, in the eyes of the profession, was always consistent with justice; so at least I have heard, over and over again, from various professional men. In Romilly's acquirements and character he beheld a leaning-stock, the value of which he knew how to appreciate.

Now for the like, through channels less exposed to suspicion:—

“The state of the Court of Chancery is such,

that it is the disgrace of a civilized society." These are the words furnished me, in writing, by a friend, as among the very words used by Romilly, but a few months before his death, in a mixed company. It was at a *place* which, for several days of his last autumn (a place I occupied in Devonshire), afforded to the relator various free conversations, besides those at which I was present:—General result:—"Lord Eldon himself the cause of many of the abuses; of the greater part of the others, the remedy always in his own hands."

"If there is a hell, the Court of Chancery is hell." Words these, given as the very words uttered by Lord Erskine but a few weeks before his death, in conversation with another person, from whom I have them under his own hand.

Both relators most extensively known, and not more known than trusted. On any adequate occasion, both papers should be visible.

Judex à non judicando, ut lucus à non lucendo, the sort of service of all others for which Lord Eldon is not only most eminently but most notoriously unfit,* is the very service for the performance of which his unexampled power may have been

* I would willingly have said *most unfit*, but Truth, as will be seen, forbids me.

Saul and Jonathan were Lord Eldon and Lord Redesdale. Lord Eldon, Attorney-General; Lord Redesdale, Solicitor-General: Chancellors—Lord Eldon, of England; Lord Redesdale, of Ireland. Scholars of the school of Fabius, but with one difference:—by the Roman cunctation, everything was perfected; by the English and Irish, marred.

The London laid a wager with the Dublin Chancellor, which should, in a given time, do least business. Dublin beat London hollow.

Witness, Earl Grey,—in those days Lord Howick.*

"When he" (Mr Ponsonby) "succeeded to the office," (suc-

* Cobbett's Debates, ix. 731. July 3, 1807. House of Commons. *Pensions to Chancellors*. From the Speech of Lord Howick, now Earl Grey.

originally placed, but if pretended, so falsely pretended, to be still kept in his hand.

This being premised, and admission made of the facility with which, for purposes such as have

ceeded to Lord Redesdale) "the Chancery Court of Dublin was in arrears for *six* years of *notices*, for *six hundred motions*, and for *four hundred and twenty-seven causes*: when he" (Mr Ponsonby,) "quitted office, he had got under *all* the *notices* and *motions*, and had brought down the *causes* to *two hundred*, besides going through the current business. Had he remained in office a few months longer, not a single *cause* would have been left undetermined."

This single incident speaks volumes: it paints *matchless constitution* to the life. Take two traits, out of more.

1. Profundity and universality of the contempt of human happiness and justice, in the breasts of the ruling and would-be-ruling few.

During the whole six years, during which Lord Redesdale, with his unfitness, staring him and everybody in the face, was paralyzing justice and manufacturing misery by wholesale—not only his creator silent, but every member of the *Aristocracy* on both sides, in Ireland as well as in England. Down to this moment, never would anybody have heard of it, but for a personal squabble about Mr *Ponsonby*, and a clause in his pension of retreat.

Mr Ponsonby, with his matchless, and, but for admission, incredible aptitude,—turned out in Ireland! Lord Eldon, after his six years perpetually demonstrated inaptitude, restored, and continued with continually increasing influence!

As to *delay*, think from hence, whether, though in that, as well as all other shapes, abuse runs through every vein in the system—think whether, of that delay which drew forth the *present* complaints, there was any other cause than the difference, in point of dispatch, between this one man and every other; and whether, while this one man is where he is, deliverance from evil in that shape, any more than in any other, be possible.

Henceforward, in Honourable House, or in Right Honourable House,—on the one side, or on the other,—should any man have the hardihood to stand up and declare, that, on either side there is any more real regard for justice there than in the hulks—or in men's breasts any more sympathy for the sufferings of the people than in the cook's for the eels she is skinning—tell him of this!

2. Double-bodied monster, Head Judge and Head Party-man, back to back: fitter to be kept constantly in spirits in an anatomy school, than one hour in the Cabinet and the next hour on the Bench. Behold in this emblem one of the consequences of having one and the same man to sit as sole highest Judge, with all the property of the Kingdom at his disposal, and in the Cabinet to act as chief organizer of intrigues, and moderator of squabbles about power, money, and patronage: the Cabinet situation being the paramount one,—the most transcendent aptitude for the judicial situation cannot keep him in it, the most completely demonstrated inaptitude remove him out of it! This, under matchless constitution, under which the most loudly trumpeted tune is—the *Independence of the Judges*.

Practical lesson. Never by any other means than the making the ruling few *uneasy*, can the oppressed many obtain a particle of relief. Never out of mind should be the parable of the *Unjust Judge*.

been brought to view, he can wrap his misery-breeding meaning up in clouds, such as while transparent to accomplices and natural allies, shall be opaque to all destined victims,—I must, for shortness, refer my readers to Mr Butler's panegyric. Sending them to a work which has already had ten times as many readers as any of mine can look to have, I secure myself against the consciousness of injustice, and, I hope, from the reproach of it.

I will advance further in my approach to meet him.

On any of those nice points on which, expectation being equally strong and sincere on both sides, the difference between right and wrong being scarce discernible, decisions, were it not for appearances, might, with as little prejudice to the sense of security, be committed to lot as to reflection holding the scales of justice,—on any of those sources of doubt and display, which, in any tolerable system of legislature-made law, a line or two, or a word or two, would have dried up—Lord Eldon, at the expense of years, where another man

Such was the *alter idem* appointed by Lord Eldon to sit with *idem* and report the non-existence of delay, together with the most effectual means of removing it.

Keeping Falstaff in his eye,—inefficient myself, I am the cause (said Lord Eldon to himself) that inefficiency is in other men. In Dublin my foil, in London my Mitford, shall be at the head of my securities, that nothing shall be done, in the commission, which with my disciple Peel, to laud and defend me—I will establish for that purpose.

As to Lord Redesdale, digression upon digression as it is, candour and sympathy compel the mention—he, like Mr Peel, has committed one act of rebellion against his creator: he, too, has made one departure from *consistency*. Mr Peel's is the *Special Jury Act*: Lord Redesdale's, the *Insolvency Act*—Should the day of repentance ever come,—each, with his Bill in his hand, may cry, like *Lovelace* under the avenging sword—Let this expiate! But Lord Eldon!—where will be his atonement? One alone will be able to find, and that he must borrow of *Lord Castlereagh*.

would have taken days, has given to the amateurs of difficulty a degree of satisfaction beyond what any other man could have given to them : to them, satisfaction ; to himself, reputation—instrument of power applicable to all purposes. This, by the having stocked his memory with a larger mass than perhaps any other man (Romilly possibly excepted) of the cases known to have sprung up within the field of Equity,—and the having also enabled himself, with correspondent facility, to make application of them to the purpose of each moment, whatsoever be that purpose, whether it be to lead aright, to mislead, or to puzzle and put to a stand, himself or others.

So much for intellectuals : now for morals. Beyond all controversy,—recognized not less readily by adversaries than by dependents, one politico-judicial virtue his lordship has, which, in his noble and learned bosom, has swelled to so vast a magnitude, that, like Aaron's serpent-rod, it shows as if it had swallowed up all the rest. In the public recognition of it, trembling complaint seeks an emollient for vengeance ; decorous and just satire, a mask. After stabbing the *Master of the Abuses* through and through with facts, Mr Vizard takes in hand the name of this virtue—and, *innuendo*, this is the only one that can be found, lays it like a piece of goldbeater's skin on the wounds. That which beauty, according to Anacreon, is to woman,—*courtesy*, according to everybody, is to Lord Eldon : to armour of all sorts—offensive as well as defensive—a matchless and most advantageous substitute. With the exception of those, whom, while doubting, he is ruining, and, without knowing anything of the matter, plundering,—this it is that keeps everybody in good humour : everybody—from My Lord Duke, down to the Barrister's servant-clerk. Useful here, useful there, useful

everywhere,—of all places, it is in the Cabinet that it does Knight's service. It is the *Court sticking-plaister*, which, even when it fails to heal, keeps covered all solutions of continuity: it is the *Grand Imperial cement*, which keeps political corruption from dissolving in its own filth. Never (said somebody once) never do I think of *Lord Eldon* or *Lord Sidmouth*, but I think of the aphorism of *Helvetius*—*Celui qui n'a ni honneur ni humeur est un Courtisan parfait.*

When this virtue of the Noble and Learned Lord's has received its homage, the rest may be most effectually and instructively made known by their fruits. These fruits will be his *res gestæ*: exploits—performed, throughout, or in the course of, his four-and-twenty years dominion over the fields of judicature and legislation. Enterprizes consummated—enterprizes in progress—measures not originating with him, but taken up by him and improved—exploits performed by his own hands, exploits performed by the hands of his creatures, or other instruments;—under one or more of these heads, were any such exactness worth the space and trouble, would some of these exploits be to be entered,—under another or others, others. But, forasmuch as all *judicial* censure is altogether out of the question, and the space and research necessary for such distinctions altogether unaffordable, they must unavoidably be omitted. Under each head, it will be for the reader, from what he has seen or heard, or may choose to see or hear, to consider whether, and, if yes, how far, the imputation attaches. To improve upon these hastily collected hints, and complete the investigation, would, if performed by a competent hand, assuredly be a most interesting as well as useful work.

1. Nipping in the bud the spread of improvement over the habitable globe, ruining fortunes by

wholesale, and involving in alarm and insecurity a vast proportion of the vast capital of the country, by wantonly scattered doubts, leaving the settlement of them to a future contingent time that may never come.*

2. Rendering all literary property dependent upon his own inscrutable and uncontrollable will and pleasure.

* Of this broadcast dissemination of uncertainty, one obvious cause may naturally be found in the profit made in the two great shops—the *Private Act of Parliament shop* and the *Charter shop*, in which the right of associating for mutually beneficial purposes is sold at so enormous a price,—for the benefit of men, by whom nothing but obstruction, in this and other shapes, is contributed.

Wheresoever, in the case of a public functionary, remuneration wears the shape of fees, there, abuse in every shape is sure to have place. Not only in judicial offices so called, but in all offices whatsoever, such cases excepted, if any, in which for special adequate cause, special exception can be shown, salary should be substituted for fees.

In the case of patents for invention, exaction in this shape has swelled to an enormous magnitude. Justice, in the shape of reward for inventive genius, denied to the relatively poor, that is to say, to probably the far greater number;—sold at an enormous price to the relatively rich: all inventions,—the authors of which are not themselves rich enough to carry them through, nor able to find a capitalist to join with them,—nipt in the bud. Official men, lawyers and non-lawyers in swarms, who contribute nothing but obstruction, murdering invention thus in the cradle, ravish from genius its reward, and in case of failure, aggravate the pressure of ill success. To see the use of *matchless constitution*, on this occasion, compare the price, paid by inventive genius, for this security, in the United States and in France. Note, that on these occasions, that plunderage may be tripled, the three kingdoms are disunited.

In all, or most of these cases, Lord Eldon, after having had a little finger in the pie when Attorney-General, has a finger and thumb in it now that he is Chancellor: adding to the pleasure of licking in the sweets, the gratification of obstructing improvement—called for this purpose *innovation*.

A set of motions, calling for returns of these several sources, and of the masses of emolument derived from each by the several functionaries, could scarcely be negatived.

3. Establishing a censorship over the press, under himself, with his absolute and inscrutable will, as censor: inviting, after publication with its expense has been completed, applications to himself for prohibition, with profit to himself in these, as in all other instances.

4. Leaving the line of distinction between cases for *open* and cases for *secret* judicature, for so long as there is any, at all times dependent on his own inscrutable and uncontrovertible will and pleasure, establishing and continually extending the practice of covering his own proceeding with the cloak of secrecy.

5. Rivetting, on the neck of the people, the continually pinching yoke of an aristocratical magistracy, by rendering all relief at the hands of the Chancellor as hopeless, as, by artificial law expenses, and participation in sinister interest and prejudice, it has been rendered, at the hands of the Judge.

6. On pretence of heterodoxy, by *ex post facto* law, made by a single Judge for the purpose,—divesting parents of the guardianship of their own children.

7. Injecting into men's minds the poison of insincerity and hypocrisy, by attaching to pretended misdeeds, sufferings, from which, by an unpunishable and unprovable, though solemn act of insincerity, the supposed misdoer may, in every case, with certainty exempt himself.*

* Questions allowed to be put to a proposed witness, "Do you believe in the existence of a God?" If he, who does not believe, answers that he does,—thus answering falsely, he is received: if his answer be, that he does not believe,—speaking thus truly, he is rejected of course.

It is by exploits such as this, that rise has been given to this appalling question—"Which, in the capacity of a proposed witness, is most trustworthy—the Christian, Priest, or Layman,

3. In all manner of shapes, planting or fixing humiliation and anxiety in the breasts of all, who, on points confessedly too obscure for knowledge, oppose him, or refuse to join with him, in the profession of opinions, in relation to which there is no better evidence of their being really his, than the money and power he has obtained by the profession of them.

9. Pretending to establish useful truth by the only means by which success to pernicious falsehood can ever be secured. Proclaiming, in the most impressive manner, the falsehood and mischievousness of everything that is called *religion*,—by punishing, or threatening to punish, whatsoever is said in the way of controverting the truth or usefulness of it.

who, for a series of years, has never passed a day without the commission of perjury,—or the Atheist, who—when at the instance of Lord Eldon, or any one of his creatures in the situation of Judge, interrogated as to what he believes—submits to public ignominy, rather than defile himself with that abomination in so much as a single instance?" Christians! such of you as dare, think of this and tremble!

Question, as to this virtual Statute, the source and seat of which is in the breast of Lord Eldon:—if this is not a subornation of perjury, what is or can be? Lord Eldon—is his mind's eye really so weak, as, throughout the whole field of legislation, to be kept by words from seeing things as they are?* Decide who can, and give to head or heart,—sometimes to the one perhaps, sometimes to the other,—the credit of this blindness.

* As to the constant and all-pervading habit of perjury, see "*Swear not at all.*" For cleansing judicature of this abomination, a not unpromising course is in the power of individuals. Any suitor, who sees a witness of whose testimony he is apprehensive—if the witness belongs to any of the classes in question, let his counsel have in hand a copy of the statutes in question, asking him whether he did not swear observance to every one of these statutes, and whether, in the breach of this or that article, he did not constantly live: on denial, he will be indictable for perjury: on admission, it will be a question whether he can be heard.

Lord Eldon! did you never take that oath? *Lord Eldon!* did you never violate it? Think of this, *Lord Eldon!*—*Mr Peel!* did you never take that oath? *Mr Peel!* did you never violate it? Think of this, *Mr Peel!*

10. Bearding Parliament, by openly declaring its incapacity to render unpunishable anything to which the Judges, with the words *Common Law* in their mouths, shall have been pleased to attach punishment, or take upon them to punish:—thus, by the assumed authority of himself, and those his creatures, keeping men under the rod of punishment, for habits of action, which, in consideration of their innoxiousness, had by Parliament been recently exempted from it: as if Parliament had not exempted men from *declared* and *limited*, but for the purpose of subjecting them to *unconjecturable* and *unlimited* punishment. Witness the Unitarians, and all others, who will not, at his command thus signified, defile themselves with insincerity, to purchase the common rights of subjects.

11. Doing that which even Parliament would not dare to do, and because Parliament would not dare to do it: doing it, with no other warrant, than this or that one of a multitude of words and phrases, to which *one* import as well as *another* may be assigned at pleasure. Witness *libel*, *blasphemy*, *malice*, *contra bonos mores*, *conspiracy*, *Christianity is part and parcel of the law of the land*: converting thus at pleasure into crimes, any the most perfectly innoxious acts, and even meritorious ones: substituting thus, to legislative definition and prohibition, an act of *ex post facto* punishment, which the most consummate legal knowledge would not have enabled a man to avoid, and as to which, in many an instance, perhaps, it was not intended that it should be avoided.*

* But Parliament—contempts of its authority all the while thus continually repeated—what does it say to them? Say to them? why nothing at all to be sure: Cabinet, by which the wires of Parliament are moved, desires no better sport. Chan-

All this—which, under a really existing constitution, grounded on the greatest-happiness-principle, would furnish matter for impeachment upon impeachment, — furnishes, under the imaginary “matchless” one, matter of triumph, claim to reward, and reward accordingly.

cellor,—by whom the wires of Cabinet are moved, and by whom the acts of contempt are committed or procured,—looks on and laughs in his sleeve.

Contempt of Parliament indeed! Parliament desires no better than to be thus contemned: and to be assured of this, observe whether, of the indications given in these pages, it will suffer any, and what use to be made. Contempt of Parliament! Why, all this is the work of Parliament itself. That which, with its own forms, it could not do without a world of trouble—what it might even be afraid to do—for, where guilt abounds, so does cowardice—it does by simple connivance, without a particle of trouble. But why talk of *fear*? On each occasion, whatever is to be done, the object with all concerned is to have it done with least *trouble* to themselves. By the hand of a Judge, those by whom Parliament is governed do, without any trouble, that which without trouble in abundance could not be done by the hand of Parliament.

In flash language, *Common Law*—in honest English, *Judge-made Law*—is an instrument, that is to say, Judges are instruments—for doing the dirty work of Parliament: for doing in an oblique and clandestine way, that which Parliament would at least be ashamed to do in its own open way.

Nor, for the allotment of these parts, is any such labour as that of concert or direction necessary. Nothing does the purpose require that an English Judge should do, more than what in his situation human nature and habit effectually insure his doing: giving, on every occasion, to his own arbitrary power every possible extent, by all imaginable means. While this is going on, so long as what he does suits the purposes of his superiors, it is regarded, of course, with that approbation of which their silence is such perfectly conclusive evidence. On the other hand (to suppose, for argument sake, an effect without a cause) should he ever, in any the smallest degree obstruct their purposes, any the least hint would suffice to stop him. What could any Judge do—what could even Lord Eldon hope to do—against the will of Monarchy and Aristocracy in Parliament?

12. Poisoning the fountain of history, by punishing what is said of a departed public character on the disapproving side—while, for evidence and argument on the approving side, an inexhaustible fund of reward is left open to every eye: thus, by *suppression*, doubling the effect of *subornation*, of evidence. This by the hand of one of his creatures: his own hand, without the aid of that other, not reaching quite far enough.

The title *Master of the Abuses* which occurs in page 76, may perhaps have been thought to require explanation. It was suggested by that of *Master of the Revels*, coupled with the idea of the enjoyments in which he and his have for so many years been seen *revelling* by the exercise given to the functions of it.

The *Mastership of the Revels* being abolished, or in disuse—the *Mastership of the Abuses* appears to have been silently substituted: and Lord Eldon presents himself as having been performing the functions of the office, as yet without a salary: with his Masters in Chancery, serving under him in the corresponding capacity, and on the same generous footing, on the principle of the *unpaid Magistracy*. A subject for calculation might be—at what *anno domini*, the business of all the *denominated* Offices, possessed by those Masters and their Grand Master respectively, will have been brought into the state, into which, under his Lordship's management, that of the *Six Clerks* has already been brought, together with that of the *Six Offices*, with which the *future* services of his Honourable Son have been so nobly and generously remunerated? —at what halcyon period these offices will, with the rest, have been sublimated into sinecures, and the incumbents apotheosed into so many *Dii majorum* or *Dii minorum gentium* of the Epicurean heaven?

To help conception, a short parallel between the Noble and Learned Lord, and his Noble and Learned predecessor Jefferies, may be not altogether without its use.—*General Jefferies* had his *one "campaign:"* *General Eldon*, as many as his command lasted years. The deaths of *Jefferies's killed-off* were speedy: of *Eldon's*, lingering as his own resolves. The deaths of *Lord Jefferies's* victims were public—the sufferers supported and comforted in their affliction by the sympathy of surrounding thousands: *Lord Eldon's* expired, unseen, in the gloom of that solitude, which wealth on its departure leaves behind it. *Jefferies*, whatsoever he may have gained in the shape of royal favour—source of future contingent wealth,—does not present himself to us clothed in the spoils of any of his slain. No man, no woman, no child did *Eldon* ever kill, whose death had not, in the course of it, in some way or other, put money into his pocket. In the language, visage, and deportment of *Jefferies*, the suffering of his victims produced a savage exultation: in *Eldon's*, never any interruption did they produce to the most amiable good humour, throwing its grace over the most accomplished indifference. *Jefferies* was a tiger: *Eldon*, in the midst of all his tears, like *Niobe*, a stone.

Prophet at once and painter, another predecessor of *Lord Eldon*—*Lord Bacon*, has drawn his emblem. Behold the man (says he) who, to roast an egg for himself, is ready to set another's house on fire! So far so good: but, to complete the likeness, he should have added—*after having first gutted it*. One other emblem—one other prophecy. It is not written in the *Arabian Nights' Entertainments*?—*Sinbad the Sailor*, *Britannia*: Old Man of the Sea, the Learned Slaughterer of Pheasants, whose prompt deaths are objects of envy to his suitors. After fretting and pummelling, with no

better effect than sharpening the gripe — the Arabian slave, by one desperate effort, shook off his tormenting master. The entire prophecy will have been accomplished, and the prayers of Britannia heard, should so happy an issue, out of the severest of all her afflictions, be, in her instance, brought to pass.

practice, and a few over, in the Equity Courts, as well as many a man who has had none, will be able to draw the line, and say to himself, whether by any former Judge, anything like so much encouragement has been given to the sort of conduct therein held up to view. Ask, with so many learned gentlemen, whether it be to Lord Eldon or to the system, that the phenomenon are due? Ask first, whether it is to the father or to the mother that the birth of a child is due?

POSTSCRIPT.

§ 1. *Under Lord Eldon, Equity an Instrument of Fraud and Extortion.*—*Samples continued.*

WHILE writing what is above, came to hand a "Review of Chancery Delays," &c. signature, "The Authors." When what they say is seen, the reason for such their concealment will be sufficiently manifest. Read this work of theirs, whoever you are,—you who, thinking for the public, have any regard for justice: so rich the mass of abuse, it not merely denounces in general terms, but spreads out in detail, bringing it at the same time within the conception of non-lawyers: the matter ranged under some nine or ten heads, following one another in the chronological order of the proceedings in a suit.

"Proper subject of every honest man's indignation," according to them (p. 42) not only "the system which allows," but "the Judges who encourage such conduct:" and with a little attention, every solicitor who has had twenty-five years'

practice, and a few over, in the Equity Courts, as well as many a man who has had none, will be able to draw the line, and say to himself, whether, by any former Judge, anything like so much *encouragement* has been given to the sort of conduct therein held up to view. Ask, with so many learned gentlemen, whether it be to Lord Eldon, or to the system, that the phænomena are due? Ask first, whether it is to the father or to the mother that the birth of a child is due?

From this most instructive publication, take a few hastily-picked-up samples. Pages 48, 49.

1. Master's attendance (as everybody knows) never more than one hour in one day in the same cause.

2. Between attendance and attendance, distance commonly three or four days, frequently a week.

3. For every such actual attendance, payment for that and two others exacted by the Master, he declaring in writing that on both days he has attended, whereas on neither day has he, or anybody for him, attended.

4. For each such falsely alleged, and unjustly charged attendance, fees exacted by the Master, not only for himself, but for every solicitor employed in the suit a separate one; there being in every Equity suit parties in any number, having, as many as please, each of them a separate solicitor.

5. Hours of such attendance in a day seldom more than five (other accounts generally make it less.) Per Mr Vizard, see above, §2, p. 9, with "*some exceptions*" only, not more than three.

6. Months in which such attendances are to be had, out of the twelve, not more than seven.

Page 52. Recapitulation of the means of delay, employable in ordinary, over and above the additions employable in extraordinary cases: to wit,

employable by dishonestly-disposed men on the two sides of the suit respectively, thus enabled and invited by Lord Eldon, with or without predecessors for stalking-horses, to carry that same disposition into effect.

I. By dishonesty on the *Defendant's* side ; to which side, in a common law-suit, dishonesty is of course most apt to have place.

	Years.
1. Before the time for what is called <i>appearance</i> (the defendant not being <i>permitted to appear</i> , but forced to employ in appearing for him a solicitor, whom, likewise, without a train of barristers to speak for him, the Chancellor will not see)	1½
2. By not appearing before the cause is ultimately called on for Judge's <i>hearing</i>	2
3. After <i>hearing</i> "wasted by reference to a Master, years from 4 to 6:" oftener a much longer period	4 to 6
4. Between Master's report made, and Judge's second hearing	2 to 3
Total,	9 to 12½

II. By dishonesty on the *Plaintiff's* side, that is to say, on the part of him, who, at common law, had been on the Defendant's side ; one half of the business of Equity consisting in stopping or frustrating the application of the remedy held out by common law ; and at any stage, down to the very last, this stoppage may be effected.

N. B. This combination of two sorts of judicatories, proceeding on mutually contradictory principles, is by Lord Eldon, and by so many others, professed to be regarded as necessary to justice.

	Years.
1. By amending Bills, from	4 to 6
2. Between the suit's being <i>set down</i> for hearing by the Judge, and its being by that same Judge <i>called on</i> for hear- ing	2
3. After hearing, wasteable in refer- ence to a Master, as in the Defendant's case, as above, from	4 to 6
4. Between Master's report and Judge's second hearing, as above	2 to 3
Total,	12 to 17

Note that (as has been often stated, and never denied) delay on the Plaintiff's side, as here, has been in use to be employed as a regular and sure source of profit by dishonest men with other men's money in their pockets, where the quantity of it in the shape of capital has been deemed sufficient, by means of the interest or profit on it, to pay for the delay sold by the Judges of the common law and equity courts together: they, with their creatures and other dependents in office, and their friends and connections in all branches of the profession, sharing, by means of the fees, with these dishonest men in the profit of their dishonesty.

Comes in, at the same time, "Letter to Mr Secretary Peel on Chancery Delays, by a Member of Gray's Inn." Pages, 25.

I. Page 20. Subject-matter of the most common and seldomest-contested species of suit—account of a testator's estate.

1. Number of useless copies taken of said account, ten.

N.B. Cost of each, ten-pence for every ninety words.

2. Pages 15, 16, 17. Under Lord Eldon, irrelevance, technically styled "*impertinence*," thence useless lengths of pleadings perpetually increasing—"laxity of pleadings, quantity of impertinent matter—a subject-matter of general complaint, and general observation *by Lord Eldon*." Punishment being all this while unexampled; encouragement in the shape of reproof in the air, or threats, of which it is known they will never be executed, are at the same time frequent. Before Lord Eldon, the practice was, to saddle the counsel with costs. Per the Authors, as above (p. 9), by "*late decisions* this abuse has received positive encouragement and increase."

Pages of all five pamphlets, taken together (Mr Vizard's included) 157. Compressed into perhaps a third of the number, the substance would compose a most instructive work. By detaching from the abuses the proposed remedies, the compression might perhaps be aided: the remedies, in a narrow side column or at bottom, in form of notes.

But neither should the defences, whatever they are, pass unexamined: for of the charges, with such premiums for defence, whatsoever is passed over unnoticed or slurred over, may, with unexceptionable propriety, be regarded as admitted.

§ 2. *Lord Eldon Squeaking.*

Drama (not to say *farce*),—"The Courts of Law Bill." Time, June 28, 1825. Editor,—*Globe and Traveller*. Scene,—Right Honourable House. Enter Lord Liverpool, Prime Minister, Bill in hand. Lord Eldon, Chancellor, in the back ground. Motion by Lord Liverpool for proceeding in the Bill. Enter Lord Grosvenor with a digression—a dissertation on sinecures: Lord Liverpool, in an-

swer:—determined to save fees from commutation during the incumbency of the present incumbents; determined to save the Head Fee-eater from all hardships imposed on inferior ones: determined to give the Puisne Judges the proposed 5,500*l.* a year, because there were others, who, for doing less, were paid more. Mr Robinson having previously (to wit, in Honourable House) demonstrated the necessity of the increase, appropriate aptitude being, in his mathematics, as *dignity*, and *dignity as opulence*: the proof being composed of repetitions, ten in number, (for they have been counted) of the word *dignity*.

Whereupon, up rises Lord Eldon, finger in eye, answering Lord Grosvenor's digression, with a digression on calumny and firmness. Addresses, two: one to the people, the other to Noble Lords. For better intelligibility, behold these same addresses, in the first place, in plain English: after that, for security against misrepresentation, in Lord Eldonish.

1. *Lord Eldon to the people, in plain English.* Have done! Have done! Let me alone! Nay, but don't tease me so. You had best not; you won't get anything by it. This is not the way to get me out, I can tell you that. Come now, if you will but let me alone, I'll go out of my own accord. I should have been out long ago, had it not been for you. It's only your teasing me so that keeps me in. If you keep on tease—tease, I'll never go out: no, *that* I won't.

Note that this was on the 28th of June 1825: ten days after the day on which, without authority or expectation on the part of the Author, the Editor of the Morning Chronicle, with whose stripes the noble and learned back is so well acquainted, had given an article on these *Indications*.

*The original in Lord Eldonish.** “Perhaps it is thought that this mode of calumnious misrepresentation is the way to get me out of office. They are mistaken who think so: I will not yield to such aspersions; nor shrink from asserting what I owe to myself. Had I been treated with common justice, I should not, perhaps, have been Lord Chancellor this day; but, I repeat it, I will not be driven out of office by calumnious attack. Let me only be treated with common justice, and my place shall be *at any man’s disposal*.”

Calumnious indeed! Look back, cautious and justice-loving reader. Look back at the *Indications*: see what any of them want of being *proofs*: see whether anything but a formulary or two is wanting to render them proofs, and conclusive ones. Suppose, for argument’s sake, the defendant guilty, and see whether, on that supposition, anything more convincing than what is there brought to view, could have been adduced. Say whether, in case of mis-statement anywhere, there can be any ground for regarding it as wilful: any ground for attaching to it any such epithet as *calumnious*.

2. *Lord Eldon to Lordships in plain English.* Help! help! help! Going, going! Can’t stand it any longer. What! nobody lend me a hand? Nobody speak a word for me? Do not you see how it is with me? What! and will *you* turn against me? Better not: I can tell you *that*. You’ll be all the worse for it. When I am put down, it will be your turn next. What will become of your privileges—think of that! I’ll tell you what, so sure as they take away my seals, so sure will they take away your privileges.

* For greater fidelity, and to avoid some circumlocutions, the third person is here all along retransmuted into the first.

Squeaking, staggering, blustering, crying out for help—all in a breath! What an exhibition!

Original in Lord Eldonish. “The feelings and fate of an individual are in themselves of small importance to the public, and I may be sacrificed to the insults I daily receive. But I beg noble Lords to reflect, that I may not be the only sacrifice. If the object is, as it appears to be, to pull down the reputations, and throw discredit on the motives and conduct of men in high official situations, —if every man who occupies a high situation in the church” [turning of course to the Bishops’ Bench] “in the Church or State, is to become the object of slander and calumny, then your Lordships may lay your account with similar treatment, and be convinced that your privileges or power cannot long be respected, when such characters have been sacrificed.”

N.B. At what words the tears began to flow is not reported. When a crocodile comes on the stage—*Tears, tears*, should he added to the *Hear! hears!*

No, my weeping and fainting and firmness-acting Lord. How purblind soever the eyes you are accustomed to see around you, blindness is not yet so near to entire, as to make Lordships see no difference between your seals and their privileges. Their privileges! Who is it that is to take away these same privileges? The King? or the People? or the Pope of Rome? Your seals! Yes, the King can take away these pretty playthings of yours and not improbably will, so soon as in his estimation there will be more uneasiness from keeping them where they are, than from placing them elsewhere. But Lords’ *privileges!* they are a sort of a thing not quite so easily disposed of. To bring his hand in, his Majesty will first take away from himself his own *prerogatives*.

The People? Yes: supposing guards and garrisons were all annihilated in a day, the people, that is to say a mob, might not find much more difficulty in dealing with these accoutrements of yours than the King would: after burning your bags, they might throw your seals into the Thames, where your predecessor, *Littleton*, threw his. Yes: all this a *mob* (for this is what you always have in view when you speak or think of the people) might indeed do. But could they either burn or throw into the Thames their Lordships' privileges?

As to the Pope, I say nothing of him here: what regards him, belongs to Catholic Emancipation.

Seriously, it was found impossible, by anything but extravagance, to comment upon such extravagance. What must have been the state of that mind which could rely upon it as argument?

In this place, without aid either from witchcraft or from treachery, I had actually gone on and given the substance of the argument, with which, in cabinets and over bottles, the noble and learned Lord has for these five-and-twenty years, and more, been occupying himself in the endeavour—no very difficult one, it must be confessed—to keep up, and if possible to increase, the aversion to improvement in so many shapes, and to reform in every shape. But relevancy seeming questionable, and mischief from overweight unquestionable, the papers have been put aside.

The *Indications* are before the reader: some original, others copied. In both cases, how determinate they are, he can scarcely have failed to remark. As well as the proofs, he shall now have before him the answers. From a clear conscience, accompanied by a clear and well-exercised con-

ception *they* would have been correspondently determinate. In generals, at any rate, and in particulars, according as time and occasion admitted, and importance required, every charge would have been noticed; and, lest omission should be taken for confession, no one left altogether without notice.

So much as to what the answers might have been, and, in the momentarily supposed case, would have been. Behold now what, in the actual case, they are.

First, as to the general heads of defence. They will be found composed of uncharacteristically-vituperative matter, applied at every turn to the accusations, and expressed in these terms:—

1. "Misrepresentation and calumnies."
2. "Calumnious misrepresentation."
3. "Such aspersions."
4. "Calumnious attacks."
5. "Mis-statements and misrepresentations of every kind."
6. "Much misrepresentation."
7. "Calumny and mis-statement."
8. "Slander and calumny."

What the noble and learned Defendant's perturbation did not permit him to perceive is, how strongly this sort of language smells of "*the Old Bailey*:" of the place he was looking to be "sent to by their Lordships," (as per *Globe*, June 21, 1825) there to be "*put to death*:" and that when a man can find nothing to say that shall tend to his exculpation, this sort of unmeaning outcry is what he vents his anguish in, rather than be seen to make confession in the shape of silence.

So much for generals. Follow now all the several specific attempts at defence, with an observation or two upon each.

LORD ELDON.

I. “*From the accounts which have been furnished to me of my emoluments as Lord Chancellor from those who best know the amount,*” [Lordship himself being nobly careless of all such things] “*apart from my income as Speaker of the House of Lords, I am happy to say, that the Lord Chief Justice of the King’s Bench has received a larger sum from his office: I speak from the average accounts of the last three years.*”

OBSERVATIONS.

1. What is this to the purpose? Not of the *quantum* do we complain, but of the *sources*: of which sources he dares not say a syllable.

2. Whatever it be that you receive, is it the less because you receive it from a number of *places* instead of one?

3. Of the patronage, nothing said: whereas, from a small portion of it, you receive, in the person of your Son, according to the undisputed calculation of Mr Miller,* 3,500*l.* a year, and, unless in case of untimely death, will receive in the whole, 9,000*l.*

4. What is it to the purpose what the Chief Justice has? If the emolument of the man in question is excessive, does the greater excess of another man’s make it less so?

5. Since he knows, then, what his emoluments are, why will he sit to be thus badgered, rather than produce them? Why, unless it be because they would be seen not to agree with the account thus given of them? and because he fears that, if

* “Inquiry into the Present State of the Civil Law of England,” pp. 79, 80.

Honourable Gentlemen knew the whole amount, they would grudge giving him full value for it ?

LORD ELDON.

II. “ *And I will further say, that, in no one year since I have been made Chancellor, have I received the same amount of profit as I enjoyed while at the Bar.*”

OBSERVATIONS.

1. *The same ?* No, most probably not ; for, so long as there is a farthing’s-worth of difference, this is strictly true. But how is anybody to know whether it is ?

2. If everybody knows it, what would it be to the purpose ?

3. While the Chancellor declares himself *happy*, that the Chief Justice’s profits out of other men’s misery are so great, may a suitor be permitted to confess himself not quite so *happy*, that Barrister’s profits, drawn by insincerity, out of the same impure source, are, if so it really be, so enormous ?

LORD ELDON.

III. “ *Had I remained at the Bar, and kept the situation I held there, I solemnly declare I should not have been a shilling the poorer man than I am this moment, notwithstanding my office.*”

OBSERVATIONS.

1. Believe who can : evidence none. Disprobative counter-evidence, as to the official side of the account, obstinacy of concealment : evidence, circumstantial indeed, but not the less conclusive.

But, possibly, here as before, of his cluster of

offices, with their emoluments, he shuts his eyes against all but one: and thus, by a virtual falsehood, thinks to keep clear of a literal one.

2. Again—what is all this to the purpose?

Oh, had he but kept to the bar! or, instead of the Bench, been sent to that Bar to which, as above, he so lately looked to be sent by their Lordships on his way to another place—what a waste of human misery would have been saved! Of human misery, for which who ever saw or heard him exhibiting any the slightest mark of regard? Men, women, and children—widows and orphans being treated by him as if composed of insentient matter, like the stones from which the gold exacted from them was extracted.

LORD ELDON.

IV. “*No charge of delay can fairly be brought against me.*”

OBSERVATIONS.

1. Now well done, Lord Eldon! To a host of witnesses continue to oppose a front of brass!

2. Not to speak of the mountains of manufactured delay opened to view by the samples, as it by a particular providence, in opposition to this plea of *Not Guilty*, behold, prepared by anticipation, six months antecedently to the pleading of it, a special piece of criminative evidence: a statement, the manifestly trustworthy result of a course of observation, the commencement and continuance of which was a phenomenon not much less extraordinary than the course observed upon. It is here copied, word for word, from a Morning Paper.* Whence it came from is un-

* *Morning Herald*, Thursday, 2nd December 1824.

known: neither to the whole nor to any part of it whatsoever, has any contradiction been ever heard of.

3. Under the eyes of so vast a posse of retainers, retained by every tie of interest in the defence of this giver of good gifts,—is it in the nature of the case that anything to which the name of misrepresentation could have been applied with any chance of being regarded as properly applied, should in all this time have passed unnoticed?

“COURT OF CHANCERY.—(*From a Suitor.*)—Term ended on Monday: the Lord Chancellor, when he was rising, apprised the gentlemen of the Bar and the suitors of the Court, that he would not come down till Thursday. His Lordship is no doubt entitled to two day's recreation after his learned labours of a month. In order that the public may duly appreciate those labours, let us briefly review them:—the calculation may appear curious—the time which his Lordship sat—the number of cases *heard*—not *decided*—and the *quantum* of relief afforded.

“His Lordship commenced his sittings on the 1st November, and from that to the 29th, both inclusive, he sat in Court 24 days. In no day but *one*, did he sit before *ten* o'clock; on *one* day only did he remain till *three*: indeed he could not during Term, for as he has often said, ‘*the students should have their dinner.*’

“His Lordship out of the 24 days, spent in Court $79\frac{1}{2}$ hours!!!

For 4 days his Lordship sat	$4\frac{1}{2}$ hours each,	equal to	18
For 6 ditto	4		24
For 8 ditto	$3\frac{1}{2}$		26
For 4 ditto	$2\frac{1}{4}$		9
For 2 ditto	$1\frac{1}{4}$		$2\frac{1}{2}$
24 days			79 $\frac{1}{2}$ hours

“ This statement is correct, if the Court *Clerk* can be depended on. On two of those short sitting days his Lordship had to attend in Council to hear the Recorder's Report of the Old Bailey convicts ; on another of them, he rose before twelve o'clock, in indignation that there was *no business* :—No business in Chancery ! On some of the other short days he was called on *business elsewhere*. But let us now see how this time was occupied.

“ The case of the *Rev. A. Fletcher* is entitled to the first place in this enumeration. Indeed the flight of Paris *with* Helen was not destined to give more employment for the Grecian heroes, than the flight of Mr Fletcher *from* his Caledonian lassie is to cut out for the gentlemen of the long robe : thus may we fairly exclaim,—*Cedent arma togæ !* In the King's Bench we had only a skirmish, from which the parties retired *æquo Marte*. The great fight was reserved for the arena of Chancery : for four days the contending parties fought, and four times did night, or preparations for the students' dinner, put an end to the contest. On the fifth day,—after hearing from eight Counsel nine speeches, the reply included,—his Lordship decided that he would not become an officer of police for a Scotch Synod, to pull the Rev. Preacher from the pulpit.*

“ This case consumed 17 hours out of 79½. But is it decided ?—No—the contrary, for his Lordship more than once intimated ‘ that, *if* it were worth while by a longer term of suspension to bring the question before the Court in a *more regular form*, his opinion *might* incline the *other way*.’ His intimations will not be lost on the Synod ; therefore, Mr Fletcher, that you may not be pulled down

* Sarcasm and false wit, instead of calm judgment !

by the skirts, you had better, like *Mawworm*, wear a spencer.

“ Fourteen hours more were consumed, from day to day, in two cases which were new to the Court. These were—petitions, from *Latham* and *Abbots*, bankrupts, praying that his Lordship, by virtue of the enlarged jurisdiction conferred on him by the new Bankrupt Law, would grant them their certificate, which the required number of their creditors refused. His Lordship, after many observations, referred one to be re-examined by the Commissioners; and, to determine the fate of the other, he demanded more papers. The cases of these parties are therefore *in statu quo*, and we are again fated to listen to half a dozen long-winded orations.

“ Next after these in point of duration, is to be placed the motion to commit the *Glamorganshire Canal Proprietors*, for violating his Lordship's injunction. After hearing eight counsel for ten hours on different days, his Lordship decided that four of the Defendants were not to be committed; but the liberty of the fifth is *adhuc sub judice*. To balance the mildness of the judgment with a sort of trimming policy, vengeance was denounced against the refractory *watchmen*; therefore *they* had better look sharp. *Discite justitiam moniti et non temnere*.

“ We have now accounted for 41 hours out of the 79½. Of the rest, the old cases of *Grey v. Grey*, and of *Garrick v. Lord Camden*, in which no progress was made, took up 5 hours; 5 more were devoted to *Hale v. Hale*, to determine the sale of mother's estates, to be commenced *de novo*; and 10 from day to day were given to the *Attorney-General v. Heales*; *Sims v. Ridge*; the matter of *Bayles*, and the matter of *Blackburns*; to *Honey v. Honey*, *Wilcox v. Rhodes*—appeals from the Vice-Chancellor,

in the latter of which *his Honour's* decree was pronounced to be '*nonsense, incapable of being executed.*' Not one of them is a jot advanced.

"*Lunatics and the Elopement of a Ward*, took up $2\frac{1}{2}$ hours. The *New Alliance Company* took up 3: and then 9 more were wasted in disputes between Counsel and Court about priority of motions.

"The opening of the eternal *Opera House* cases (of which there are now three) took up 3 hours, and the remaining 7 were consumed from time to time on bankrupts' petitions, and miscellaneous orders.

"To recapitulate the whole, the business and time are balanced thus:—

The Attorney-General <i>v.</i> the Rev. A. Fletcher . . .	17
Ex parte Latham <i>in re</i> Latham and Parry, bankrupts, and Ditto Abbots <i>in re</i> Abbots and Abbots, ditto . . .	14
Blackmore <i>v.</i> The Glamorganshire Canal Company . . .	10
Grey <i>v.</i> Grey; Garrick <i>v.</i> Lord Camden, and Hale <i>v.</i> Hale . . .	10
The Attorney-General <i>v.</i> Heales; Sims <i>v.</i> Ridge; <i>in re</i> Baylis, and <i>in re</i> Blackburns, with Honey <i>v.</i> Honey and Wilcox <i>v.</i> Rhodes . . .	10
Lunatics, Elopement of Ward, Alliance Company, and disputes about priority of motions . . .	$8\frac{1}{2}$
The Opera House cases . . .	3
Miscellaneous . . .	7
	79 $\frac{1}{2}$

LORD ELDON.

V. "*It is a mistake to suppose, that because the drudgery of some offices is performed by deputies, they are therefore to be called sinecures.*"

OBSERVATIONS.

1. Nebulous-gas — confusion-gas—evasion-gas, from the Eldon laboratory. Eldon junior's six sinecures—four in possession; two more in reversion;—of course here in view. Never, where com-

mon honesty is an object of regard—unpunishable swindling, of indignation,—never will they be anywhere out of view.

2. Mark here the division. Business of official situation, *drudgery* and non-drudgery. Drudgery, doing the business of the office: non-drudgery, receiving and spending the emoluments of it; paying for the doing of the business (unless it be of a particular connection) no more than a pittance, the smallest that any one can be found to take.

Note that, with few, if any exceptions, when from any one of these offices, you have separated the drudgery, you have separated all the business from it. For, laying out of the case those which are *judicial*, such as the *Masterships* and the *Commissionerships* and the *Examinerships*,—the business of them amounts to little or nothing more than ordinary clerk-business, such as copying or making entries under heads: business not requiring a tenth part so much appropriate knowledge and judgment and active talent, as that of an Excise-man does.

3. Note that what his Lordship here does, consists in putting a *possible* case, that those who are eager to lay hold of every supposition favourable to him and his system, may, without proof, set it down in their minds an *actual* case: an actual case, to a considerable extent exemplified; and in particular, in the instance of the rich cluster of sinecures, out of the profits of which, without troubling himself with the drudgery either of writing or thinking, his Honourable Son is acting the part of a fine gentleman; and, if rumour does not over-flatter him, testifying filial gratitude by good dinners.

4. The *possible* case is this:—a situation in which one man and no more is placed, though the

business of it is more than one man can adequately perform: the business being at the same time of such a nature, as to be capable of being divided into two branches: one, requiring extraordinary appropriate acquirements, the other requiring none beyond ordinary ones; for example, shopkeepers' clerks' acquirements. In this state of things, the extraordinary talent-requiring part of the business is reserved by the principal official person for himself (his appropriate aptitude, considering the dignity of him of whose choice he is the object, being unquestionable :) the no-more-than-ordinary-talent-requiring part (that, to wit, which is meant by the *drudgery*) being turned over, or rather turned down, by him to the deputy. Of the thus wisely and carefully made division and distribution, sole object of course—the good of the service.

5. Now then—supposing an enquiry into this matter included in the enquiries of a House of Commons' Committee, is there so much as a single instance in which any such over-weight of business, together with any such division made, would be found exemplified? Whoever is a layer of wagers, might, without much danger, venture a considerable one to the contrary.

6. In the case of *Eldon junior*, what I would venture to lay for is—that, of his four places in possession, there is not one, the business of which requires so much appropriate knowledge, judgment, and active talent as that of an Exciseman does; and that there is not one for which he himself does any business other than signing his name, with or without the trouble of looking over the accounts of the deputies (if in name or effect there be any) to wit, for the purpose of ascertaining

whether the principal receives the whole of what is his due. And so in regard to the *reversions*: the existence of which, by the bye, is a separate one, and that an abominable and altogether indefensible abuse.

7. True, my Lord. An office, in which, for the public service, a something, an *anything*, is done — is not in strictness of speech a sinecure: though that something were no more than any charity-school-boy is equal to; and although it took up but a minute in doing, once out of each of the seven months in a year, during which your Masters (your Lordship's Son-in-law included) serve.

8. This being conceded to you, what are you the better for it?

Would you have the amount of the depredation exercised by the maintenance of an office allowed to be executed by deputy? I will give you a rule by which, in every case, you may obtain it. From the sum received by the principal, subtract that received by the deputy or deputies: the difference is, all of it, depredation. Of thus much you may be sure; whether of this which the deputy or deputies receive, there be any and what part that belongs to that same account, is more than you can be sure of, otherwise than by applying to this case, that matchless criterion of due proportion as between reward and service, fair competition—competition, as in the case of goods sold, and under the name of *work done*, service, in all shapes, sold to individuals: and, if good in those cases, what should render it otherwise in this?

9. Casting back an eye on the matter thus employed in effecting the explosion of the Eldon gas, I cannot but regret the quantity. If, by any

instruction contained in it, the labour of looking into it be paid for, it will be by the applications capable of being made of this concluding rule.

LORD ELDON.

VI. “*I will pledge myself to be as active as any Noble Lord in correcting abuses, but I will perform my duty with a due regard to the rights of others.*”

OBSERVATIONS.

1. Pledge himself? Yes: but giving a pledge is one thing—redeeming it, another. In the whole five-and-twenty years, during which this has been swagging, like an incubus, on the breast of Justice, in what instance has he ever meddled with abuse in any shape, unless it be by the endeavour to give perpetuity and increase to it?

Not that, as thus worded, this desire amounts to any great matter beyond what he might have credit given him for, and this without any very wide departure from the exact line of truth. Noble Lords,—if in a situation such as theirs it were possible for men to feel any such desire,—would not have far to look for the gratification of it. Your Majesty (said somebody once to a King of Spain who was complaining of ceremonies) is but a ceremony. Your Lordships (the same person might have said to their Lordships) are but an abuse.

As an *argumentum ad hominem*, nothing against this challenge can be said. But, the organs, for which it was designed, were the ears of Noble Lords, not the eyes of the public: to which, however, I hereby take the liberty of recommending it. *Abuses* are neither *hares* nor *foxes*. Noble Lords are too well born, and under Noble and Learned Lords too well bred, to take any great delight in *hunting* them.

LORD ELDON.

VII. “*The reason why in the present Bill there appeared no clause regulating offices in the Court of Chancery is—that a Commission is now sitting on the state of the Court.*”

OBSERVATIONS.

1. Now sitting? O yes, and for ever will be, if his Lordship's recommendation to the people is taken by the people, and the operation of *teazing* ceases or relaxes—*Sedet, æternùmque sedebit.*

2. A Commission? Yes: and what Commission?—A Commission which never could have sat at all—which never could have been thought of at all—had it been supposed that, in either House, there exists any such sense as a sense of shame.

3. An enormous dilatory plea, set, like a gun, in a self-judication-system; a transparent veil for corruption; a snug succedaneum to the still apprehended and eventually troublesome inquisition, of a not quite sufficiently corrupt Honourable House,—such is this Commission:—a subterfuge, which, more than perhaps all others, has damaged the reputation of the principal, not to speak of the accomplices. In matchless Constitution, that all-pervading and all-ruling principle, the self-judication principle, has now to that *local habitation*, which it has so long had, added *a name*: a name which, so long as the mass of corruption in which it has been hatched continues undissolved, will never cease to be remembered—remembered, in time and place, by every lover of justice and mankind, as occasion serves.

LORD ELDON.

VIII. “ *I am uncorrupt in office ; and I can form no better wish for my country than that my successor shall be penetrated with an equal desire to execute his duties with fidelity.*”

OBSERVATIONS.

1. *I am uncorrupt !* And so a plea of *Not Guilty* was regarded by this Defendant as sufficient in his case to destroy the effect of so matchless a mass of criminative evidence, and supersede the need of all justification and exculpativè evidence !

Incorrupt ? Oh yes : in every way in which it has not been possible for you to be corrupt, *that* you are. So far, this negative quality is yours. Make the most of it, and see what it will avail you. Remains, neither possessed, nor so much as pretended to, the whole remainder of appropriate moral aptitude, appropriate intellectual aptitude, and that appropriate active aptitude, without which, a man possessed in the highest degree of appropriate aptitude in both those other shapes, *may* in your situation be, *has* in your situation *been*—a nuisance.

Desire ! And so in an office such as that of Chief Judge, and that but one out of a cluster of rich offices fed upon by the same insatiable jaws, *desire* is sufficient : *accomplishment*, or anything like an approach to it, supervacaneous !

Yes : that he *does* form no better wish for his country—this may be conceded to him without much difficulty : for, whatever be the situation, when a man has been disgraced in it by inaptitude, the least apt is to him, but too naturally the least unacceptable successor. But, as to the *can*, this is really too much to be admitted : for, even a

Lord Eldon—after rubbing his eyes, for the length of time necessary to rub out of them, for a moment, the *motes*, which keep so perpetually floating in them in the shape of doubts,—even a Lord Eldon might be *able* to see that desire and accomplishment are not exactly the same thing; and that, where the object is worth having, *desire* without *accomplishment* is not quite so good a thing as desire *with* accomplishment at the end of it. Put into this Chancellor's place, his housekeeper, supposing her to have any regard for the money it brings, would have this same desire—which, except the uncorruption, is all he can muster up courage to lay claim to, and which is so much more than can be conceded to him—the desire, in respect of *fidelity* and everything else, so far to execute the duties of it as to save herself from losing it.

Next to this, comes what has been seen already in his Lordship's concluding address to their Lordships. Of the visible condition of the Defendant, no intimation is given in the report: to judge from what is given, a man who could with such a peroration close such a defence, must have been at the verge of a fainting fit: in which condition he shall, for the present, be left.

LONDON:

PRINTED BY G. AND W. REYNELL, BROAD STREET, GOLDEN SQUARE.

the first of these, and the most important, is the fact that the United States is a young nation, and its history is a history of growth and development. The second is the fact that the United States is a nation of immigrants, and its history is a history of the struggle for a common identity. The third is the fact that the United States is a nation of free men, and its history is a history of the struggle for freedom.

THE UNITED STATES

The United States is a young nation, and its history is a history of growth and development. The first of these, and the most important, is the fact that the United States is a young nation, and its history is a history of growth and development. The second is the fact that the United States is a nation of immigrants, and its history is a history of the struggle for a common identity. The third is the fact that the United States is a nation of free men, and its history is a history of the struggle for freedom.

And it is to be remembered that the United States is a nation of free men, and its history is a history of the struggle for freedom. The first of these, and the most important, is the fact that the United States is a young nation, and its history is a history of growth and development. The second is the fact that the United States is a nation of immigrants, and its history is a history of the struggle for a common identity. The third is the fact that the United States is a nation of free men, and its history is a history of the struggle for freedom.

ON THE MILITIA.

WHAT regards the militia, considered as a source, seat, or subject-matter of retrenchment, having been already brought into a determinate shape, and printed, Anno 1828 or 1829, in a newspaper,—is here reprinted: reprinted in the form in which, when Vol. II. of the Constitutional Code now in the press, and in some advance, comes to be published, it will be seen in *Ch. X. DEFENSIVE FORCE, § 3, Radicals, who.* Articles from 21 to 35, both inclusive; pages 40 to 49, both inclusive.

Instructional. Exemplificational.

ART. 1.—To an English or English-bred mind, the idea of an aggregate body, the individuals of which are brought together by compulsion, with a view to land-army service,—and which is distinguished from an army by its comparative unserviceableness for the purposes for which both are intended,—presents the word *militia*. As to the *existence* of this institution, in England, and in the Anglo-American United States, it is unquestionable. To find for it anything like *a use*, must be the work of imagination. Two, and no more than two, uses, does this instrument (it is believed) ever bring to mind.

1. Supposable Use the first. *Nursery for the army*: this phrase may serve to give expression to one.—2. Supposable Use the second. *Protection against* the army, and those who have the command of it: this phrase may serve for the other.

As to the benefit derivable from the keeping up, at *all* times, by pay and compulsion to boot, a large body of ineffective men, with no better prospect than that of a *chance* of being able, *with*, or though it were even *without*, compulsion, at one time or other, to aggregate a small portion of it to the effective army, instead of aggregating to that body, on each occasion, at the minimum of expense, the number actually wanted and no more,—this first imaginable use has just been held up to view.

Instructional.

ART. 2.—Under the head of *contentment-maximizing*, the affliction attached to compulsory service, in this line, has been brought to view. To save from all such affliction themselves and their associates, it has, of course, been the effectual care of rulers to grant exemption from it to purchasers. Price for a temporary exemption, say (for example) as under English militia law, 10*l.*; of the persons on whom the obligation is imposed, some there will be, who, having for their all this same 10*l.*, purchase the exemption, pay for it such their all, and suffer accordingly: others who, if they had had the money, would gladly have paid it for the exemption; but not having the money, serve per force, and suffer accordingly still more than those from whom their all has, as above, been taken. Thus stands the matter at the *bottom* of the scale of opulence. Look now to the *top*.

Others there are, each of whom, having a million of pounds at command, pay the 100,000th part of their property, and suffer nothing. Between these two extremes rise, in the scale of inequality, as many degrees as there are *farthings* between the ten pounds and the million of pounds. Nor is this highest degree of inequality regarded as sufficient. For, at the top of the scale, persons there will be sure to be, and in considerable numbers, of whom such effectual care will have been taken, that they will have the benefit of the exception without paying so much as one farthing for it. Such, under matchless constitution, is the regard paid, on this occasion, to the *inequality-minimizing* principle.*

Instructional.

ART. 3.—Remains, the protection imagined to be afforded or affordable by the militia *against* the army: against the army, and thence against those who have the command of this last-mentioned in-

* When the French had their *corvées*, the English had their *statute days labour*. To add to the opulence of the opulent, every labourer whose sole source of his day's subsistence was his day's labour, was ordained to starve, while labouring on the road, six days out of every 365; for 365, say rather (to make allowance for holidays and sick days, as well as Sundays) 300.

This by Act of Parliament. To legislators, the misery they were organizing—was it unknown? Think, then, of their *intellectual* aptitude. Was it known? Think, then, of their *moral* aptitude.

Towards the close of the last century (the exact year is scarce worth searching for), on the motion of a friend of the Author of these pages, *Sir Thomas Charles Bunbury*, better known by the name of *Sir Charles Bunbury*, this disgrace to the Statute Book was expunged from it.

strument, the force and formidableness of which are not open to dispute.

Here, if the use itself is *imaginary*—not so is the fact of its having been held up to view, and *that* by the highest authority, in the character of a real one. Witness the English statute, 26th Geo. III, cap. 107, passed for *consolidating* antecedent statutes, by which the institution styled *the militia* had been legislated upon. True it is, nothing can exceed the delicacy with which the conception here in question is sought to be conveyed. But what is meant, is either the above, or nothing. “A respectable military force, under the command of officers possessing landed property within Great Britain, is essential (says the act) to the constitution of the realm. 2. The militia, now by law established, has (it continues) been found capable of fulfilling the purposes of its institution.” Such are the propositions, by which, in the guise of *reasons*, the approbation of the *subject-many* is bespoken for the institution:—bespoken by the united wisdom and eloquence of the *ruling one* and the *sub-ruling few*.

Instructional.

ART. 4.—Thus much for *profession*. Now for *efficiency* and *sincerity*. This shadowy instrument of security, against the irresistible instrument of danger and the hand that wields it—by what hand, if applied, is it to be applied? By that same hand, and no other. Approving this policy, would you pursue it with consistency?—one course, and one course alone, lies open to you. An invasion? is that what you are afraid of? To the apprehended invader give the command of whatsoever army you have for your defence. Bonaparte, when

at Boulogne, was the man to have commanded your army : Bonaparte, not the King, the Prince Regent, or the Duke of York.

Instructional.

ART. 5.—The engine, with its *primum mobile*, being in such hands, the machinery—can it be worth looking at? Look, then, at the intermediate wheels. Persons holding command in this body—to whom does it belong to locate them? To the monarch; every one. To whom to dislocate them, and that at pleasure? To the same. On whom at all times does it depend whether motion shall be given to them? To the same. Oh, but the officers must, each of them, have a piece of land belonging to him. True; but such a piece, that, putting all the pieces together, the aggregate will still fall short of what is possessed by this or that individual, whom the vision of a *star* in the East will lead at all times whithersoever his Majesty pleases. Remain all this while the *privates*; and if, as above proposed, it was on their own free-will that their convention and their operations depended, then indeed the security might amount to something. But no: matchless constitution knows better things.

Instructional.

ART. 6.—Well, then—this same machinery—is it altogether useless? By no means. To whom, then, is it of use? To the engineers—the civil engineers,—King, Lords, and Commons, that have charge of it. And its value to them, what is it? Answer—Year ending 24th December 1826, 287,407*l.* 11*s.* 5*d.* Note, however, that what this year gives is the minimum of its value. This year

the militia was not, as the phrase is, *called out*: if called out, the value of it, as above, would, to an indefinite amount, have received increase.

Instructional.

ART. 7.—So much for England. Turn now to the Anglo-American United States.

When the democracy there does wrong, it is by thoughtless continuation of the usages of the corrupt monarchy out of which it sprung. Witness *Senate*, as to which, see below, Ch. XXX. Witness *Common Law*, as to which, see *Rationale of Evidence*, Vol. IV.

Militiamen.—On paper say 1,300,000*; number in attendance everywhere variable, at all times unascertainable. For estimating effects, two portions of the aggregate must be distinguished; those whom free-will, and those whom compulsion brings together; to the last alone applies what follows.†

Instructional.

ART. 8.—Danger being equal to 0, query the value of the best security? Of danger from without, sole possible source, hostility from the small, still unevaporated, remnant of the savage race. Miles of frontier between 2,000 and 3,000. For

* Per estimate for year 1826 (being on the 2d of February 1828, the last estimate) 1,129,277l. This information, and what follows it, are from a diplomatic source.—“From some of the States the returns were at that time two or three years old, and in other respects defective.”

† Note, that in so far as it is by compulsion that the four days' attendance has been produced, it is by the local governments that this compulsion has been applied. “Congress are authorised to make laws for the organizing, arming, and disciplining of the militia, but have never exercised this power to any important extent.”

lining it, number of stipendiaries authorised by law, 6,186, officers included; in actual existence, the whole number, never; on the 31st of October, 1827, 5,722; a little more than two to a mile. In existence, why so few? Answer—because, judging from experience, more are thought not to be needed.

Instructional.

ART. 9.—So much for security against danger from *without*. Now, as to security against danger from *within*; against danger from the above-mentioned 6,186 stipendiaries. Of the men who, in the character of *riflemen*, have, from boyhood, been at least as much practised in the effective use of firelocks as any of the above-mentioned 6,186 stipendiaries, what shall conjecture state as the number? Fifty times as many? Twenty times as many? Ten times as many? Strange, if for bringing the danger down to 0, the least of these numbers be not amply sufficient; reckoning as amounting to nothing, in respect of appropriate force, the number of the fencible men not thus practised.

Instructional.

ART. 10.—So much for *security* in all shapes. Now, as to *expense*, expense of the price paid for it. Under this head, a little more accuracy would be worth obtaining, were obtainment possible. Meantime, note, that, under this head, compulsoriness or non-compulsoriness makes no difference; the pecuniary loss by the non-performance of productive labour being in both cases the same. But if, and in so far as, in addition to this loss, money or money's worth on the score of pay or equipment is expended,—thereupon comes a correspondent *addition* to this same loss.

In the United States, average value of a day's labour, a dollar; say, on a low calculation, half a dollar, in English sterling 2s., taking the dollar, for even money, at no more than 4s. Number, of each militiaman's attendance, days in the year, four. This gives for the yearly expense of his attendance, dollars, two; English sterling, 8s. This multiplied by the above-mentioned 1,300,000, gives dollars 2,600,000—pounds sterling 520,000. Compare this with the total expense of the general Government; in money, dollars not more than seven millions; of pounds sterling, 1,575,000.

Instructional.

ART. 11.—Such is the expense, the burden of which is designed and endeavoured to be imposed. True it is that, to a large, and that an unascertainable amount, the attendance is not paid; and, in so far, the design is frustrated. True it is that, to that same amount, a deduction will require to be made from the expense.

Instructional.

ART. 12.—But, proportioned to this *deduction* from the expense, comes an *addition* to the *mischief*; and *that* to an amount by which all attempts to bring arithmetic to bear on it are set at defiance. This consists in the debility infused into the whole legal system. Compulsory law covering the whole territory with its whole population, and disobedience to it staring everybody in the face everywhere. Everywhere either the actual suffering from the compulsory obedience, or the contingent and inappreciable mischief of debility in the Government from the disobedience.

Instructional.

ART. 13.—As a substitute for the compound composed of indirect waste and the compulsion—pay, to be employed simply, has been proposed—pay to be given to a smaller number for longer and closer appropriate attendance and preparatory service. That in this way the evil in all shapes might be lessened, seems beyond dispute. But, for a security where there is no danger—for a security the value of which is equal to 0, 0 would be a somewhat more appropriate payment than hundreds of thousands of pounds or dollars, were there ever so few of them.

Instructional.

ART. 14.—But an invading army—Oh, yes; a curious enough sight would be an invading army. But from whence, henceforward, is it to come? From no whither, unless it be in a fleet of steam-boats sent out from Washington to fetch it. Yes; the very last invasion from Europe that the confederacy will ever have experienced, is the one which was disposed of by that General, in whom, because the rifles under him performed so well, the unreflecting multitude behold their fittest President.

Instructional.

ART. 15.—From England shall an armament come for this purpose? If expense be mischief—more mischief will it have done *in* England—to England—before starting,—than it could reasonably expect to do in the United States, before the country had closed round it and disposed of it, as *Burgoyne* and *Cornwallis* were disposed of. If to the people of England the Colonies called *their* Colonies were worth anything, who does not see

that every one of their compulsorily-governed American Colonies would be in the hands of the *freely-governed United States*, a security for good behaviour on the part of the distant obedience-compelling rulers? *

* In several of the United States, serving in the Militia serves as a qualification for voting on elections.

Considered in itself, this arrangement presents itself as eminently useful, as being powerfully contributory to the superseding all need and demand for compulsion, for the purpose of engaging men to the performance of this service. So far as regards the defensive force establishment, the usefulness of it seems, therefore, eminent and unquestionable.

But *qualification* on the part of one description of persons, supposes on the part of another description of persons, *disqualification*:—an arrangement which, in proportion to the extent given to it, is inconsistent with the *universality of suffrage*, proposed as per *Chap. VI. LEGISLATURE, § 5, Electors, who.*

INDIAN ACCOUNT

LONDON:

PRINTED BY C. AND W. REYNELL, BROAD STREET, GOLDEN SQ.

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS
1215 EAST 58TH STREET
CHICAGO, ILL. 60637
U.S.A.

THE UNIVERSITY OF CHICAGO PRESS
1215 EAST 58TH STREET
CHICAGO, ILL. 60637
U.S.A.

THE UNIVERSITY OF CHICAGO PRESS
1215 EAST 58TH STREET
CHICAGO, ILL. 60637
U.S.A.

ON
PUBLIC ACCOUNT KEEPING.

COMPLAINTS have of late been made, of the method at present pursued, for making recordination and appropriate publication, of the transactions of the several classes of functionaries, of whom the official establishment of the British Government is composed; and of the pecuniary and *quasi-pecuniary* transactions more particularly. By high authority, it has been pronounced inadequate and ill-adapted to its professed purpose. To this, by that same authority, a substitution has been proposed, and *that* in the character of a well-adapted and adequate one. It consists in simply substituting, to the *method* and *phraseology* at present employed, the method and phraseology, which is called sometimes the *Italian*, sometimes the *double-entry* mode or system; and the use of which is confined to the case in which pecuniary profit and loss are conjunctly presented to view.

Against this change, so far as regards the use of this peculiar and technical phraseology, I protest on two grounds—1. that, instead of being conducive to, it is incompatible with, the design which, on this occasion, whether it actually be or no, ought to be entertained; namely, that of rendering the state of the accounts in question more effectually and extensively understood—2. that, if introduced, it would of itself produce deterioration, to an unfathomable degree, in a form of government which assuredly stands not in need of any *such* change.

These evils will, when examined, be seen coalescing into use.

First, as to the *design*. What ought it to be?—Answer, as above. To render the transactions in question as effectually *understood* as may be, and to that end as *intelligible* as may be, to those whose interests are at stake upon them: that is to say, in the first place, to the *representatives* of the people, in the next place to the *people* themselves, constituents of those same representatives.

Now, then, in respect of *intelligibility*, what would be the effect of the introduction of this same Italian mode? So far from augmentation, it would be little less than destruction: and this, relation had as well to *constituents* as to *representatives*.

Method is one thing; phraseology is another—1. First, as to *method*: that, by means of it, any addition would be made to the

number of those by whom the transactions in question would be understood, remains to be proved: no determinate reason for thinking so have I anywhere been able to find. Whatsoever, if anything, this same addition would be, might it not, to equal effect and with equal conveniency, in every respect, be made, by the phraseology in use with everybody, as well as by that which is peculiar to merchants? With little or no hesitation I answer in the affirmative: at any rate, that which may be asserted without even the smallest hesitation is, that whatsoever may be the advantage derivable from the *method*, never can it compensate for the evil inseparably attached to the unintelligibility of the *phraseology*.

2. Next and lastly, as to the *phraseology*. To the whole community, with the exception of the single class designated by the appellation of *merchants*, this phraseology is utterly unintelligible: to all those for whose use it is, or ought to be, designed, by those by whom the substitution of it to that which is universally intelligible, is proposed: Members of Honourable House, and people without doors, included.

Of the number of those to whom it is unintelligible, compared with the number of those to whom it is intelligible, what is the amount? To any person whatsoever the answer may be intrusted. Be it what it may,—say who can, that it will not suffice to ground the

putting a decided exclusion upon the proposed change.

Now then for the other objection:—deterioration of the form of Government. To a universally intelligible mode of giving expression to the transactions of the functionaries of Government, and in particular to the plan which consists in the collection of the produce of the taxes, and the disposal made of it, substitute an almost universally unintelligible mode; what is the consequence? *Answer—*Exit Public Opinion: enter Darkness: such as that which forms the characteristic of absolute Government. To matchless Constitution may be substituted the Government of Spain, Portugal, or Turkey: and this without responsibility, or danger in any shape, on the part of the authors of the change.

Obvious as these effects can scarcely fail to appear when once mentioned, to none of those persons by whom the subject has been taken into consideration do they appear to have presented themselves: neither to those by whom the change has been proposed, nor yet even by those by whom it has been opposed.

First, as to those by whom it has been opposed. These are—Messrs *Brooksbank and Beltz*, two of the three Commissioners for enquiry into the state of the Public Accounts. “*A wide difference exists (say they) between the business and circumstances of a trader and those of a government department:*” in the

observation thus vague and unapplied consists the only objection made by them to the introduction of the Italian mode: of the distinction between *method* and *phraseology*, no intimation whatever is conveyed by it.

Next and lastly, as to those by whom the change has been *proposed*. Not without sincere regret is it, that, on this occasion, and for such a purpose, I hold up to view a production on so many other accounts so highly estimable as the work entitled "*Financial Reform, by Sir Henry Parnell, Baronet, M.P.*" late Chairman of the Committee on Finance. *Pure*, once (p. 196), *purest*, twice (pp. 192 and 197):—in these two words are contained all the arguments I can find in that work, in favour of this same phraseology. "Mr Abbot's proposal is" (he says, p. 194) "to establish the Italian system in its *purest* form; and to those persons who are *practically* acquainted with the Italian system of accounts, the reasons on which Mr Abbot founds his opinion of its being applicable to all official accounts, cannot but be (he says, p. 173) completely satisfactory."*

"Applicable?"—Unquestionably. But what is that to the purpose? Just nothing. Applicable means *capable* of being applied. But, of the truth of this proposition what

* Session of 1830. House of Commons Report, No. 159. "Copy of a Letter from Mr Abbot, late one of the Commissioners," &c.

Parnell.—*Purest*, p. 192—*Pure*, 196—*Purest*, 197.

need of opinion from that gentleman or any body else, to make us fully satisfied? Applicable, or not applicable *with advantage*?—that is the question. And, to that question answer has *not* been given by Mr Abbot; answer *has* been given *here*.

That of the desire of these so highly intelligent and well-informed statesmen above-mentioned, unintelligibility on the part of the subject-matter in question, and ignorance, next to entire, on the part of the persons in question, were not amongst the objects—I, who write this, am altogether satisfied. But of the desire of those by whom the recommendations made by the Committee over which he presided were set at nought, and the existence of that same Committee cut short, were or were not these among the objects? Relieved should I be from an anxiety eminently painful, were it in this paper, consistently with sincerity, to answer in the negative.

“To bring forward a motion for the emolument of the persons in question,” was, according to Mr Chancellor of the Exchequer (if the account of the debate is to be believed *) “*treating* them” (it should perhaps have been *placing* them) “in an invidious point of view:”—and, in effect, he, accordingly, on that same occasion, did what depended on him towards preventing their being placed in that same point of view.

* *Morning Chronicle*, May 15, Debate of May 14.

But these same persons—who were they? *Answer*, “Members,” (says he) “of the Privy Council,”—“a body composed of the Council of the Sovereign;” and afterwards, “the first Judge in the land was included in it.”—Prodigious! And so, in the opinion of this member of the Cabinet Council, be the man who he may, the servants of the Crown have but to obtain the placing of him in a situation which affords them the means of putting into his pocket an indefinitely large portion of the produce of the taxes,—this done, nobody but themselves is to be informed of the amount of it. What the amount is of the booty thus determined to be screened from detection, the Right Honourable guardian of the public purse has not informed us. But if the imputation couched under the word *invidious* be all that he objects to, a sure and easy receipt for the wiping it off is at his command. It consists—in the giving publicity to the information in question, in the instance of every public functionary without distinction.

In and by the original Committee on Finance, of which the late Charles Abbot, afterwards Speaker, and not long ago ennobled by the title of Lord Colchester, was Chairman, extensive were the disclosures of this sort made; and, as far as appeared, in endeavours to narrow them. This was in the years 1797, 1798. Thirteen or fourteen years after, came the Committee on Finance, of which the Chairman was the still

living Mr Henry Banks, the Lord Eldon of Honourable House. From the Report made by that Committee, no possibility was there of learning the aggregate of the emoluments received, in the instance of any one of the functionaries occupying the situations mentioned in it. So exquisite was the ingenuity by which the deed of darkness was accomplished.

In the eyes of the Right Honourable persons in question, is the imputation of harbouring this same design of darkness regarded as matter of importance? is the clearing themselves of it considered by them as an object worth their regard? The means at their command are most effectual.

For and during many years in the latter part of the last century, for the use of the Directors of the Life Insurance Company called the *Amicable Society*, was annually published, in conjunction with an almanac, a list of the situations of which the official establishment was composed, with the emolument attached to each in the shape of salary. At present in the annual publication, intituled the *Royal Calendar*, of these situations, or at any rate the greatest part of them, a list is published; but, of emolument in the shape of salary, or in any other shape, in no such publication, or in any other publication, is any mention to be found.

Now then, by order of some one of the constituted authorities, let a complete list be published of all those several situations, with the amount of the aggregate of the emolu-

ment respectively attached to them: and to the columns in which these aggregates are inserted, let be added another, exhibiting the total of the emoluments received by the functionary in question, from all public sources taken together; with numeral figures, expressive of the pages, in which the several situations, with their respective masses of emolument, are presented to view.

Against the proposition for throwing the light of day upon this part of the den of Cacus, the only argument adduced by the Right Honourable Gentleman is composed of the word *invidious*. In the import of this same word the idea of *distinction* is included. Do away the distinction—set fire to the gas—illuminate *uno flatu* the whole den, as above proposed,—extinguished is this argument. Some dictionary, dead or living, he will have to turn over for another such.

On the present occasion,—after what has been said on the subject of *unintelligibility*, is it worth while to say anything more of that same branch of art and science (for *science* I see it called) to which the attribute of *purity* has so unhappily been ascribed? Of fiction, and nothing else is it composed: of a tissue of misrepresentations—of departures from truth—and these not merely useless, but much worse than useless. To *things*, relations all along ascribed, of which *things* are not susceptible: to *persons*, relative situations in which, on the occasion in question, these same persons

are not placed. *Wine* is said to be *debtor* to *cloth*. To what use this absurd falsehood? What explanation, if anything, does it give? To what human being who has not been drenching himself with this and the kindred falsehoods for weeks or months, can it present any idea, unless it be an illusive one, unless it be translated into the vulgar tongue? True it is, that, had this locution been originally applied to the presenting to view the ideas annexed to it by the professors of this art-and-science,—it might have served as well for the purpose as does the correspondent part and parcel of the vulgar tongue: but, having once been fixed in the habit of being applied to so different a purpose, thence comes the confusion, and the useless difficulty which stands opposed to all endeavours to understand it.

So much for confusion-spreading *proposition*: now (to speak in logical language) use for a delusive *term*. Enter *Waste-book*, *cum totâ sequelâ suâ*:—*Waste-book*, a book, composed of paper the value of which is that of waste paper. To an unadept mind, what other idea than this is it in the nature of this appellation to suggest. Yet is this one book the corner-stone, on which the truth and usefulness of all the others rest:—a book, error in which infects with correspondent error all the rest:—the original, of which, though in different forms, all those others are but copies. Call this book the *original* book, those others the

derivative books, the delusion vanishes. Call this book the *chronological*,—those others the *logical* books, the matter being traced in different *orders*, according to the different purposes,—a further instruction is afforded.

It is one of the branches of that art-and-science, which teaches how to make plain things difficult. A curious and not altogether un instructive parallel, is that which might be made between this *regular* and *technical* mode of account keeping (for by both these epithets do I see it honoured) and the technical and regular system of judicial procedure. It would show to what a degree, by the leading-string held by blind Custom, without any additional one tacked on by Sinister Interest, aberration from the rule of right is capable of being effected. Of this phraseology, if any use it have, the use consists in giving *brevity* to the mode of expression. Analogous is the use, in this case, to that of *short-hand*, as a substitute to ordinary hand,—to that of arithmetical notation as a substitute to ordinary orthography,—and to that of algebraic, as a substitute to arithmetical, notation. But, small in comparison is the utmost service, which, in this character, can be rendered by it: and on this ground, not on an imaginary one, by those who teach it, should the usefulness of it be placed.

In my *Constitutional Code*—to wit, in the already published volume of it—may be seen a section, in which, in the compass of sixty-

eight pages, what is designed for an all-comprehensive set of books, for the exhibition of the accounts, pecuniary and quasi-pecuniary, of any Government whatsoever, is presented to view. But for the bulk of it, it would have been included in this present miscellany. Official establishments, which it embraces in its view, are—not only those of this country, but those of any other country whatsoever.

To any attention, bestowed upon it by the only persons from whose attention to it any good to the community would ensue,—two objections there are, to the potency of which the author is duly sensible. No title had he, having the effect of a warrant from authority, for the undertaking of it. Instead of the 1,600*l.* a-year, or some such matter, from all the members of the community taken together,—16*s.* from each of such of them as may vouchsafe to purchase it, is the remuneration he will receive from it: by which remuneration, in the case of this work, as in the case of almost all others by which he has endeavoured to render his labours useful to his own country and mankind,—his profits will, to a large amount, be left on the *minus* side.

Two objections there are, to its being regarded as worth the 16*s.* by those with whose title to receive money out of the taxes, Mr Chancellor of the Exchequer is so effectually satisfied, by the consideration of the quantity thereof so received by them. Two objections,

and each of them an unconquerable one. No such remuneration will be offered; and, were it offered, no such remuneration,—nor any remuneration, other than that which would be afforded by the acknowledgment of the usefulness of the work,—would be received.

But, let but a title, such as that of *Privy Councillor*, or were it even no other than that of *Commissioner*, with 1,600*l.* a year or some such matter, be added to it—oh what a treasure it would be! Multiply the 1,600*l.* by ten,—multiplied by the same number would be the value of the work! Multiply it by a hundred,—the value would be multiplied an hundred fold! Multiply it by 10,000, its value would outstrip that of Holy Writ;—and prostrate before it would lie the whole population of the Cabinet, accompanied and sanctified by his Grace of Canterbury, and all those other paragons of piety, whose regard for that same Holy Writ is manifested by the fineness of their sleeves, and the Tyrian dye of their servants' liveries. Included are all these propositions, in that mathematical axiom, which is the key-stone of matchless Constitution—*Aptitude is As opulence.*

* Since the proof of this sheet came in, a Royal Calendar has been taken in hand, of so recent a date as the year 1808; and in it are seen names of official situations, with salaries annexed, as in the case of the Almanack mentioned in page 8. What was the year in which this mention of salaries was for the first time omitted, and what the state of the Administration in that same year, may be curious enough subjects of inquiry.

and each of them an uncorruptible one. No such remuneration will be offered; and, were it offered, no such remuneration, nor any remuneration, other than that which might be allowed by the acknowledged value of the usefulness of the work, would be received. But, see but a little, such as that of Paymaster-General, or even no other than that of Commissioner, with £5000 a year or some such matter, be added to it—oh what a tremendous it would be! Multiply the £5000 by 100—multiplied by the same number would be the value of the work! Multiply it by a hundred, the value would be multiplied an hundred fold! Multiply it by 10,000, its value would outstrip that of Holy Writ;—and prostrate before it would be the whole population of the Cabinet, accompanied and accompanied by his Grace of Canterbury, and all those other paragons of piety, whose reward for that same Holy Writ is manifested by the fineness of their sleeves, and the Tynning dye of their servants' liveries. Included are all these propositions in that mathematical axiom, which is the key-stone of metaphysical Constitution—*Whatsoever is a creature*.

It is not all at once that the proof of the above axiom, in a Royal Calendar, has been taken to hand, or so recent a date as the year 1804, and in it were seven pages of printed annotations with various remarks, as in the case of the Almanack, in respect to the year in which this method of calculation was first introduced, and what the state of the Astronomical observations at that time were, may be curious enough subjects of inquiry.

3

Bentham, Jeremy,

Official aptitude maximized, Expense minimized as shewn in the several
papers comprised in this volume

London 1830

Brit. 53 ma

urn:nbn:de:bvb:12-bsb10278608-7